

IN THE UNITED STATES DISTRICT COURT  
OF WESTERN PENNSYLVANIA

MICHAEL BURCHIK, WAYNE  
EDDY, JASON LETT, ROBERT  
PICKEL,

CIVIL DIVISION

No. 15-529

Plaintiffs,

vs.

OIL STATES ENERGY SERVICES,  
LLC. f/k/a SPECIALTY TANK  
SUPPLY; OIL STATES  
INTERNATIONAL, INC.,

Defendants.

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Transcript of JURY TRIAL held on October 16, 2017  
United States District Court, Pittsburgh, Pennsylvania  
BEFORE: HONORABLE MARK A. KEARNEY, DISTRICT JUDGE

APPEARANCES:

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1 P R O C E E D I N G S

2 (October 16, 2017, 11:05 a.m.)

3 (In open court, jury present.)

4 THE COURT: All right, ladies and gentlemen,  
5 congratulations. The United States Constitution has now  
6 imbued you with all the powers of an Article III judge.

7 Madam Deputy, please swear these good  
8 citizens.

9 DEPUTY CLERK: Yes, Your Honor.

10 Kindly stand and raise your right hand.

11 (Whereupon, the jurors were first duly sworn.)

12 THE COURT: Thank you.

13 Ladies and gentlemen, I'm now going to tell  
14 you how the trial works, all right. You have not done  
15 this before and you never sat in such an important  
16 position in someone else's life, maybe another family  
17 member.

18 I'm going to tell you how this works so you  
19 can see what to look forward to and not look forward to  
20 and how it happens.

21 You and only you are the judges of the facts,  
22 not me, not the lawyers, certainly not the witnesses.  
23 You have to decide what happened here.

24 See, there's two good sets of lawyers, and  
25 earnest clients have a different view of what happened

1 here. You know that happens every day of your life.  
2 Two well-meaning people have a different view of how  
3 something happened. The role for you now is to decide  
4 what happened.

5           The great dynamic of eight persons is you are  
6 all part of the same brain. What that means is at the  
7 end of the day, you are going to have to come up with a  
8 unanimous verdict. This is not majority rule. It's  
9 unanimous. So, all eight of you must come to the same  
10 decision, which makes it's a fascinating group dynamic  
11 because you are all hearing the same thing by my rules,  
12 and none of you can talk about what's happening until  
13 you get back for deliberations.

14           So, for a few days now you are going to sit  
15 here and listen and you are not going to talk to anybody  
16 about it. Isn't that the most curious dynamic? You sit  
17 there, are talked to for hours, documents shown to you  
18 and you can't go home and tell your family what you are  
19 seeing.

20           Now, you can say generally, come on down and  
21 see us. We're in a very interesting trial about  
22 employment law, whether people are entitled to overtime  
23 under the law. You don't ask them for their advice. In  
24 fact, you just swore not to.

25           See, everybody in the United States today,

1 everybody in our over 200 years of jurisprudence is now  
2 relying on jurors. A couple moments ago when I said  
3 this is because juries now define the law.

4 So, over the course of this trial, you are to  
5 avoid any contact with witnesses or lawyers or anybody  
6 in the outside who could influence you.

7 That means you are going to come into the  
8 courtroom in the morning and you are going to see the  
9 lawyers and they're fine people and fine gentlemen and  
10 ladies and they are going to nod to you or not nod to  
11 you.

12 Don't take any moment from it. You are the  
13 judges and if they don't nod to you, that means they  
14 know you are the judges. Part of the downside of my job  
15 is I have to remove myself from a lot of social  
16 converse. Now, you do as well, at least in this room  
17 because you are judges now. You can't -- so don't take  
18 any moment if they don't say hello to you.

19 You are not to discuss the case with anyone.  
20 This is not an open book -- excuse me. This is an open  
21 book test that you cannot go research outside of this  
22 room. All the answers will come from that box and  
23 that's it.

24 I don't want you going home tonight or at  
25 lunch or on your phones or otherwise looking up anybody

1 in the room, Googling anything. It's not evidence. In  
2 a minute, I'm going to talk about what evidence is.

3 The entire test, your entire decision here  
4 will be answered for you from that box six feet away  
5 from you. That's the test. Don't go home, don't ask  
6 your friends, family. Just listen to the evidence, and  
7 thus, don't form any opinion until all the evidence is  
8 in. That's why I prohibit you from talking to each  
9 other about the case.

10 If you see someone else talking to one of your  
11 fellow jurors about the case or someone is saying what a  
12 silly tie the judge is wearing or something like that,  
13 talking about the evidence, I need to know about it  
14 because it's not fair to these parties. They are  
15 placing a considerable amount of faith in you.

16 See, you and I have different jobs here now.  
17 My job is to make sure the trial moves forward in an  
18 efficient way and rule on the questions of law. Your  
19 job is to decide the questions of fact.

20 I can't challenge what you do, okay. I can't  
21 say how crazy a decision that is.

22 Conversely, you can't challenge the law. You  
23 can't say, Judge, that's just bad law.

24 Unfortunately, you and I don't set the law.  
25 The law is given to us by Congress in this case and by

1 administrative agencies.

2           So, we are applying the law. My job is to  
3 give you the law, your job is to apply it. I don't  
4 challenge you. You don't challenge me on that issue.

5           It's also a very interesting dynamic because  
6 for the first time in your lives, you are in a class and  
7 you don't get to ask questions. You don't get to raise  
8 your hand and say, Judge, I want to ask a question about  
9 that.

10           No, that's not how it works.

11           You get to take notes as much as you wish but  
12 don't take any comfort or any kind of reliance on  
13 somebody else because they take notes.

14           We all have been in places where people take a  
15 lot of notes and don't know anything, and we all have  
16 been in places where people who have never taken notes,  
17 they know everything. It's just a memory aid for you.  
18 It's permitted but it's not required.

19           So, here is what you decide. Here is why the  
20 Framers in Philadelphia gave you this role because you  
21 have to decide the evidence.

22           What is evidence? Evidence is what comes from  
23 that witness stand. I'm a spatial learner, maybe you  
24 are, too. If you are looking towards me, you are  
25 getting evidence. If you are looking to lawyers or to

1 the middle of the well of the court, you are not getting  
2 evidence.

3 Evidence is what witnesses tell you, what  
4 documents tell you, or what I tell you. That's  
5 evidence. Nothing else is evidence.

6 So, for example, the arguments these good  
7 lawyers are going to make to you is not evidence.  
8 Believe me they are paid to be persuasive and I'm sure  
9 they are but it's not evidence. Evidence is what you  
10 hear from the witness stand and that is it.

11 Now, from time to time, I'm going to sustain  
12 an objection. That means don't go any further. That  
13 means just ignore it. It's not evidence. I'm deciding  
14 on the law. I have to do what I need to do like you  
15 need to do what you need to do.

16 Now, there are different types of evidence and  
17 this is something I want to clarify for you.

18 The evidence is what's heard in the room. No  
19 where else. It's heard from that stand. There really a  
20 couple types, direct and circumstantial are two types.

21 Everybody always says on the street, oh,  
22 that's circumstantial evidence, like they give it the  
23 back of the hand. I'm telling you now this is first  
24 year law school. They are exactly the same as they  
25 report to you.



1           The difference is the direct is the witness  
2 gets on the stand and tells you I was just outside and  
3 it's raining today. Okay. You can look at the witness,  
4 measure her tone, her demeanor, all the things you would  
5 measure any witness with, do you know what I mean?

6           If you met a person for the first time on the  
7 street and they started telling you a story, you would  
8 evaluate their credibility based on whether you think  
9 they are telling the truth or not, and you do that  
10 frequently. Boy, I would really get in trouble if I  
11 wasn't a lawyer. I'm sorry. I know better than that.

12           So, you have to evaluate the witnesses the way  
13 you think they are. Look at their demeanor, how well  
14 they know what they are talking about, if you think they  
15 are guessing, all the things that your intuition tells  
16 you, that is your game now, that is your role.

17           The Framers wanted citizens to apply their  
18 common sense. Your most important job is to apply your  
19 common sense. So, whether the witness comes up and  
20 directly tells you, yeah, it's raining outside. You can  
21 look at her and say okay, I believe her, I don't believe  
22 her. She hasn't been outside for two days, how does she  
23 know it's raining outside or she just came in.

24           Circumstantial evidence is to be believed the  
25 same way as direct evidence. Here is what

1 circumstantial is. The witness walks in the room, comes  
2 forward before you, her raincoat is soaked, her umbrella  
3 is wet, her hair is wet and she never mentions it's  
4 raining, you just look at her. That's weird. She  
5 either got a shower in the hallway with her raincoat on  
6 and an umbrella or she was outside in the rain.

7           The lawyers can argue from circumstantial  
8 evidence. Even though she didn't say it was raining, we  
9 all know it was raining. You just decide each piece of  
10 evidence for its own merit, each piece of evidence on  
11 its own merit, you got it.

12           You listen to a witness. I'm going to give  
13 you a little secret that I tell all jurors. Many judges  
14 don't. What I like to see you do at times is make a  
15 note of who the person is that is testifying, Mr. Jones,  
16 because when you get back there later this week, you are  
17 going to have a tough time remembering all these  
18 witnesses, maybe.

19           So, maybe you write Mr. Jones, devilishly  
20 handsome, auburn hair man, you write that there, and you  
21 say, oh, I remember him or I remember that young lady,  
22 she comes in, she works for Human Resources, she was  
23 wearing a blue top, green eyes. I remember her.  
24 Because you are not going to remember, guys. Even if  
25 you are correct, you are going to remember. You want to

1 keep something in your mind. That is what is going to  
2 tell you which way to come out.

3 It's like the old great Parker Brother game of  
4 Clue. You are going to get pieces of evidence and at  
5 the end of the day, you have to come up with an answer.  
6 If you don't remember what you have in your deck, it's  
7 going to be awful hard to do that, and you are all sworn  
8 to do that to the very best of your ability. I want to  
9 make sure you try to do that.

10 This is a civil case, I told you that. It  
11 involves whether some four gentlemen are entitled under  
12 the law to overtime. That depends on what their job  
13 roles are and you will hear all about that.

14 The evidence here has to be established by a  
15 preponderance of the evidence. It's a fancy legal word.  
16 All it really means is the person who is trying to  
17 convince you of something has to show you by a  
18 preponderance, 51/49 percent, that something is more  
19 likely so than not so.

20 That's what preponderance means. So, for the  
21 plaintiff -- for the four plaintiffs, the employees,  
22 each one of them must show you by a preponderance of  
23 what they're saying is true.

24 The defense is going to come forward and say  
25 it's not true and try to weigh on that. We all know the

1 lady scale of justice. That's exactly what it is, two  
2 sides. Each side puts pebbles of evidence on and you  
3 see which way it comes out. For you, you have four  
4 different employees, you have to figure each one of  
5 them, and the employer will have different issues.

6 So, I want you to keep out of your mind what  
7 you heard on Law and Order. This is not beyond a  
8 reasonable doubt. That's really because you are taking  
9 away somebody's liberty, putting them in jail. That's a  
10 very high standard of proof. This is preponderance,  
11 51/49.

12 Now, a couple things very briefly. These are  
13 good lawyers. We have been through this. They know not  
14 to do this, but there may be from time to time I have to  
15 go to the side like I did with the jurors.

16 Don't take any moment from the fact I go to  
17 the side to ask a question. That's only so I don't get  
18 something into evidence which I really shouldn't get.

19 The last thing you want to hear about in this  
20 week of your jury service is something that has nothing  
21 to do with the question. We're wasting as much time as  
22 we are with my talking. I don't want to hear about a  
23 football game or I don't want some witness to talk about  
24 where they went to grade school. It has nothing to do  
25 with your decision.

1           So, what I do ahead of time is make sure we  
2 focus our case on your decision. I know your decision,  
3 I know the questions you are going to be asked so I can  
4 make sure the test is focused on your schooling. Got  
5 it. I have to make sure we have given you the  
6 information and only the information you need to make a  
7 decision.

8           Here is how the trial works. In a moment or  
9 so the plaintiff is going to go forward. The plaintiff  
10 is the employees in this case. They are going to come  
11 forward and they are going to make an opening statement.  
12 This is not evidence. This is a roadmap, a preview.  
13 You are going to a movie. You are in a theater in some  
14 sense, what Shakespeare called a theater, the biggest  
15 theater in the world, a trial.

16           They are going to go over what is going to  
17 happen in the next few days, what they think they can  
18 prove to you. You can take a note. Oh, yeah, I  
19 remember this. Oh, yeah, there is going to be another  
20 witness that talks about that, too, just like you see a  
21 preview in the movie. I see her. Oh, yes, she is the  
22 protagonist. She is going to be back later on.

23           Then the defense gets to get up and tell you  
24 their side of the story. Remember, no decision is made.  
25 The reason we don't let you talk about this is no

1 decision is made until after you hear all the evidence  
2 and after I give you the law.

3 Now, some people say to me, jurors especially  
4 say to me afterwards, Judge, why didn't you give us the  
5 law ahead of time. That would be a little bit like  
6 telling you medicine before you have the illness. You  
7 would be thinking, Judge, I don't know what you are  
8 talking about.

9 I don't want to waste your time talking about  
10 things that have nothing to do with you to understand  
11 them. You need to hear the evidence, then you will have  
12 a context but I think I told you enough.

13 You have to focus on whether these four  
14 individuals are qualified to receive overtime under the  
15 law. That depends on what the job responsibilities are,  
16 what they did. I can't decide that.

17 The Framers told me I can't decide that unless  
18 they tell me to. They instead asked you to decide that.  
19 So, that's where you keep your focus.

20 After the plaintiffs and defendant finish  
21 their opening statements, we'll get some lunch and then  
22 Madam Deputy will help you. Again, make sure you tell  
23 Madam Deputy, hey, how much we want to work here. I  
24 don't want to be here, meaning you, don't want to be  
25 here longer than I have to.

1           Some of you are coming distances, I appreciate  
2 that. I'm coming a distance, too. So, I understand.  
3 So, if you wish to stay later to get things done, tell  
4 me. If you wish to come earlier because you are an  
5 early riser, I'm willing to come early. I'm right  
6 across the street. I'll do whatever you wish to do.

7           So, we are going to rise when you leave and  
8 rise when you come in, including the judge because you  
9 are now the judge.

10           Article III of the Constitution places that  
11 authority in you. Washington was so scared that he gave  
12 his authority to men at that time, men to be judges that  
13 he made us swear at the end of our oath, "so help me  
14 God" because he thought it was scary that men were  
15 sitting in judgment of other men, at that time men.

16           So, we rise for you. We answer to you. We  
17 won't answer your questions during the trial but we'll  
18 answer to you. If you want to come in early, stay late,  
19 we'll do whatever you wish to do.

20           The plaintiff will then present their case.  
21 Then the defense will get to present their case. There  
22 will be cross-examination, which is absolutely  
23 permitted. I will run all that, and then you will hear  
24 closing arguments at the end which is really argument.  
25 It's really trying to persuade you and then I will give

1 you the law.

2           Then I'll give you the questions but before I  
3 give you the law -- when I give you the law, I'll give  
4 you the questions so you can follow along.

5           Can you imagine a test like that? I give you  
6 the questions and then I give you the answers except the  
7 answers only you know because the answers only tell you  
8 the parameters. They don't tell you who is right or who  
9 is wrong.

10           I don't know what happened here, ladies and  
11 gentlemen. I don't. You and I are going to learn  
12 together. They know what happened. I don't and you  
13 don't.

14           So, I thank you again. That completes my  
15 preliminary instructions.

16           Now, I'm going to call upon the plaintiff to  
17 present a brief opening statement.

18           MR. WARREN: Thank you, Your Honor.

19           Good morning, ladies and gentlemen.

20           This is a case about whether blue collar  
21 workers who spend their days operating large, industrial  
22 cranes are entitled to overtime under federal law when  
23 they work more than 40 hours in a workweek. That's the  
24 question that you will be asked to decide at the end of  
25 this week.



1           Now, your decision is being made a little  
2 easier in this case because the company's own Human  
3 Resources Department said the answer to that question is  
4 yes. The company's own Human Resources Department has  
5 said these employees are entitled to overtime pay when  
6 they work more than 40 hours in a week, but the evidence  
7 this week will show that the company did not pay  
8 overtime to the crane operators when they worked more  
9 than 40 hours. The company ignored its obligations  
10 under federal law even though the Human Resource  
11 Department was aware of its obligations.

12           My name is Zach Warren and together with my  
13 colleagues Sam Davidoff and Michelle Hood, we represent  
14 the four plaintiffs in this case.

15           You are going to hear from all three of us  
16 over the course of the next few days, and the four  
17 plaintiffs we represent are the gentlemen seated on the  
18 bench over here (indicating).

19           On the end is Robert Pickel, next to him is  
20 Jason Lett, next to him is Mike Burchik, and next to  
21 Mike is Wayne Eddy.

22           Now, these four gentlemen worked as crane  
23 operators for Oil States. Crane operators, that was  
24 their job title, that's what they were hired to do,  
25 that's what they applied to, that's what they were told

1 they were doing.

2 We are going to show you some internal Human  
3 Resources paperwork and company emails that described  
4 these gentlemen as crane operators.

5 Their job was straightforward. They operated  
6 large, industrial cranes and they used these cranes to  
7 lift massive steel pipes and valves, and they did this  
8 work at natural gas fracking sites in the mountains of  
9 Ohio, West Virginia, and throughout Pennsylvania.

10 During the trial, you'll hear each of these  
11 four plaintiffs testify. They're going to describe the  
12 work they did and they will describe this work as manual  
13 labor.

14 They rigged up heavy, industrial cranes and  
15 then they used those cranes to lift these big valves and  
16 these big pipes that were used as part of the fracking  
17 process.

18 They spent their days sitting in the cab of  
19 the crane operating the foot pedals and the hand  
20 controls that make the crane rotate, that extend the  
21 boom of the crane, that drop the block of the crane.  
22 These are some crane terms that you are going to hear  
23 over the next couple of days, and the plaintiffs will  
24 explain to you what they mean.

25 Now, I said that Oil States does fracking

1 work. Now, let's discuss what that means. The evidence  
2 will show a fracking site looks a lot like a large  
3 construction site. It's maybe the size of five football  
4 fields stacked together. It's dirty, it's greasy, there  
5 is grime everywhere and it can get pretty loud.

6           You will see, the evidence will show there are  
7 large trucks everywhere on these sites. Some of these  
8 trucks have massive jet engines on the back of them.  
9 Those are the engines they use to pump down the fracking  
10 fluid that they use to extract natural gas.

11           When these trucks are fired up, you'll see  
12 that it can get pretty loud out there. You can't hear  
13 pretty much going on.

14           The fracking sites also have enough steel at  
15 them to build an entire Navy. Now, there's steel pipes  
16 running in every direction. It's a tangled knot of  
17 steel, a spider's web of steel, tubing running  
18 everywhere, and that's how they do the fracking work.

19           You'll see that there are work trucks  
20 everywhere, cranes, box containers, aerial lifts, all  
21 sorts of heavy equipment scattered around the wellsite.  
22 It's not the kind of place where you show up to work in  
23 a suit and tie. They don't look like me. They show up,  
24 they wear thick, greasy coveralls to work, they wear  
25 hard hats, gloves, safety goggles, work boots. It's a

1 worksite, and you are going to see a lot of evidence  
2 about what it looks like.

3           There can be anywhere from 20 to 80 people who  
4 are working on a fracking site, and the person who runs  
5 that operation you'll see is called the company man.

6           The company man works for a company called  
7 Chevron, Shell, Range Resources, companies you may be  
8 familiar with, and the company man represents that  
9 company and he oversees this entire operation. He is  
10 essentially the general contractor at the wellsite.

11           Under the company man, you got a bunch of  
12 different contractors. Remember, I said the evidence  
13 will show this looks like a construction site. Just as  
14 at a construction site you might have a few  
15 electricians, you might have some plumbers, some  
16 carpenters, some heavy equipment operators, the evidence  
17 will show the same is true at a fracking site.

18           You also have laborers, you have engineers,  
19 you have people operating equipment, but they're not  
20 called plumbers and electricians. They are called  
21 wireline contractors, pressure control contractors,  
22 through tubing contractors, flowback contractors. These  
23 are the types of contractors who work at a wellsite.

24           Now, I'm not going to make you sit through a  
25 lesson on fracking because I'm definitely not the person

1 who is qualified to give you that lesson, but I do want  
2 to go over briefly a couple of the main contractors that  
3 are at these wellsites so you can picture what is going  
4 on at the wellsite and so you can understand how the  
5 crane operators fit into that operation.

6 One of the contractors is called the wireline  
7 company. The wireline work is done by a team of four to  
8 eight people and they send a big metal tube about four  
9 to eight feet long and that tube is called a gun or a  
10 perforating gun and inside of that tube is packed a lot  
11 of explosives.

12 They pump this gun down into the bottom of the  
13 well. These wells can be 15,000, 20,000 feet deep.  
14 They send the gun all the way down into the bottom of  
15 the well and they fire off explosives, and those  
16 explosives create little cracks in the shale rock that  
17 is surrounding the well. This work is done in the  
18 Marcellus Shale formation.

19 There is natural gas that is trapped in that  
20 shale rock. When they blow up these explosives, it  
21 creates little fissures in that rock.

22 Now, like I said, it's about 15,000, 20,000  
23 feet deep. The evidence will show once they fire off  
24 these explosives, this gun is attached to a long steel  
25 cable, a very long steel cable and that's called a

1 wireline. That's why the company is called the wireline  
2 contractor. They pump that gun in. When they fire the  
3 explosives, they pull the gun back out of the well.  
4 That is step one of this process. Okay.

5 Step two of the fracking process is called  
6 fracking and it's the process of pumping liquids and  
7 sand, a mixture, into a well at a very high pressure.  
8 That's done by a different company, different  
9 contractor. That's the fracking company.

10 Now, these fluids are pumped down anywhere  
11 between 8,000, 10,000, 12,000 pounds per square inch,  
12 incredibly high pressure. To give you some sense of  
13 what that is like, it's about equal to the pressure at  
14 the bottom of the ocean.

15 These fluids are pumped all the way down into  
16 the very bottom of the well. Remember those little  
17 cracks that are created by the wireline gun, the fluids  
18 get into those cracks and it's at such a high pressure  
19 that it opens those cracks up a little bit more and then  
20 as those cracks open up, the gas that is trapped in that  
21 rock, they flow through the cracks into the well and get  
22 pumped to the surface.

23 Okay. So, that's what the wireline contractor  
24 does and that's what the fracking contractor does.

25 Oil States, which is the defendant in this

1 company, they don't do either of those processes. They  
2 help with, as far as it's relevant in this case, they  
3 help with one small aspect of that operation. That's  
4 called pressure control.

5 Pressure control basically means you got all  
6 of these highly pressurized fluids that are inside of  
7 the well and when you try to put the wireline in the top  
8 of the well, those fluids want to come spewing out the  
9 top. The easy way to imagine this is if you take a  
10 bottle of Coke and you shake it up as much as you  
11 possibly can and then you decide, hey, I want to put a  
12 straw in that bottle.

13 Now, if you take off the top of the bottle,  
14 the Coke is going to go spraying everywhere, so you got  
15 to figure out how to create a seal around that bottle of  
16 Coke so that you can get the straw in.

17 That is what pressure control is. Their job  
18 is to creat a seal around the top of the well so that  
19 when the wireline is being put into the well, you can  
20 pump those explosives down, that all of the fluid that  
21 has been pumped in the well doesn't come spraying out  
22 the top.

23 Now, you'll hear a lot about and you'll see  
24 pictures of this pressure control equipment. It's  
25 really big steel pipes 40, 80, 100 feet long, big steel

1 pipes with tubes inside of those pipes, and the way  
2 pressure control works basically, the evidence will show  
3 that grease is pumped through the tubes. The thick  
4 grease that is pumped through the tubes is at a very  
5 high pressure. It is pumped at a higher pressure than  
6 the fluids in the well.

7           So, if the well is at 10,000 pounds per square  
8 inch, the grease is pumped at 12,000 pounds per square  
9 inch. That grease creates a seal around the wireline as  
10 the wireline is going into the well. Basically that  
11 grease seal prevents the fluids in the well from coming  
12 out the top and spraying everywhere.

13           Now, the evidence will show there were  
14 employees at the wellsite who worked for Oil States,  
15 they are called field service supervisors. Their job is  
16 to operate this equipment that holds the pressure in the  
17 well, the pressure control equipment.

18           You might hear the plaintiffs refer to them as  
19 grease operators, pressure control operators. It's all  
20 the same position, grease operator, pressure control  
21 operator, field service supervisor, they are the people  
22 who operate this pressure control equipment.

23           Now, the plaintiffs are crane operators and  
24 they were not at the job site to operate this pressure  
25 control equipment but they were there to assist the



1 grease operator.

2           There is one grease operator at the wellsite,  
3 he works for Oil States. There is also one crane  
4 operator at the wellsite. The crane operator's job is  
5 to hold the pressure control equipment on top of the  
6 well.

7           So, you will recall I said the evidence will  
8 show that this pressure control equipment is an 80-foot  
9 long steel pipe and it basically attaches onto the top  
10 of the well and it sticks straight up into the air while  
11 the wireline crew is doing its work. So, it has to be  
12 held there somewhere and it has to get there somehow and  
13 the only way you can get it there is with a crane.

14           The evidence will show these crane operators  
15 would operate large, industrial cranes. They would pick  
16 up the pressure control equipment, move it over to the  
17 well, set it on the well and wait while they did the  
18 wireline work and they would pick it up, bring it over,  
19 set it down and wait for the fracking work. They would  
20 do that on the same well over and over and over.

21           Now, you can imagine that this work can get  
22 pretty repetitive and you are going to hear the  
23 defendant's managers describe this work as pretty  
24 repetitive. You are going to hear the crane operators  
25 describe this work as pretty repetitive. We are going to

1 show you some documents to maybe give you a sense as to  
2 how repetitive this work will be.

3 When the crane operators were working at a  
4 wellsite, they would keep a notepad and it kept track of  
5 what kind of work they were doing at the well just so  
6 they knew, they had some record of the activities they  
7 were performing.

8 You'll hear these come in, in different forms,  
9 you will hear different names for them. Some are called  
10 tally books, job logs, daily reports, but all of these  
11 documents are a record of what you are doing every day  
12 at the well.

13 We are going to show you some of these  
14 documents. You'll see it says arrive at the wellsite  
15 5:30 in the morning, stab equipment onto the well 6:30  
16 in morning, take equipment off the well 7:30 in the  
17 morning, stab equipment on the well 10:30 in the  
18 morning, and you'll see entries like this for a lot of  
19 days and you'll get a sense of what the crane operators  
20 are doing on these wellsites on a daily basis.

21 Now, a crane operator's job, these jobs at the  
22 wellsites, they can last anywhere from one to four weeks  
23 and sometimes it depends. These wellsites, you'll hear  
24 evidence, there are several wells at most of these  
25 wellsites, sometimes one well, sometimes two, sometimes

1 a whole lot more. So, how long the job lasts depends on  
2 how many different wells are at that location. So,  
3 that's why the jobs can last from one to four weeks,  
4 sometimes even longer.

5 When the jobs are over, sometimes the crane  
6 operators would go straight to the next job. They would  
7 get sent directly to the next well pad. If they are in  
8 Ohio, they might be sent to West Virginia. If they are  
9 in the mountains of Western Pennsylvania, they might get  
10 sent to Ohio.

11 Sometimes there wasn't another job for them to  
12 go on, so they would go back and work at the shop. The  
13 evidence will show when the crane operators were not  
14 working on a wellsite, they were required to work in the  
15 shop.

16 The shop is a garage. It's located in  
17 Canonsburg, Pennsylvania, down in Washington County, not  
18 too far from here, and the shop, it looks like a Jiffy  
19 Lube on steroids. Its overhead cranes, wash bays, heavy  
20 equipment everywhere, spare parts. It's where the  
21 company takes care of its equipment, maintains the  
22 equipment between every job, where they store their  
23 equipment.

24 The evidence will show when the crane  
25 operators came back from a job, their first priority was

1 to maintain the equipment that they were using, to take  
2 care of their cranes. Right, like any company you can  
3 imagine Oil States wants their equipment to stay in good  
4 condition.

5 When the crane operators come back from a job,  
6 these cranes are covered in dirt, they're covered in  
7 oil, they have been used for maybe several weeks in a  
8 row so they got to get the crane back in working  
9 condition.

10 The evidence will show they pressure washed  
11 the crane, cleaned it out and got all the dirt out of  
12 the cab of the crane, probably threw away a lot of  
13 McDonald's bags and got the crane ready to go, and they  
14 would have to grease up the different parts of the  
15 crane, they would have to make sure there weren't any  
16 mechanical issues, kick the tires, check the fluids, do  
17 the kind of work you would expect to get a crane ready  
18 for the next job.

19 They weren't rebuilding transmissions or  
20 rebuilding the engine. You'll see that type of work was  
21 outsourced. They were just doing basic work on the  
22 crane.

23 Now it doesn't take days and days to do that  
24 type of work on the crane. They can get that done in  
25 maybe a day. So, the evidence will show when the crane

1 operators were working at the shop, they were also  
2 assisting the pressure control operators, the field  
3 service supervisors, they were helping them take care of  
4 their equipment because that takes a lot more time.

5           So, all of these steel types and tubes and big  
6 equipment that are coming back from the wellsite, that  
7 all has to get completely broken down at every single  
8 job. That gets taken apart. There are little seals in  
9 that equipment called O-rings. The O-rings have to get  
10 cut out. You have to get all the grease out of there,  
11 you got to scrub the equipment down. You got to find  
12 whether there is any dings, any problems with the  
13 equipment, and you got to fix that.

14           You usually repaint the equipment, you put in  
15 new O-rings, you rebuild it, and you run pressure  
16 through it to make sure it's going to be ready to go for  
17 the next job.

18           That process took more time than taking care  
19 of the crane. So, the evidence will show when these  
20 guys were working in the shop, they spent a lot of time  
21 helping out the pressure control operators rebuilding  
22 that equipment.

23           Now, you'll hear that this is kind of basic  
24 quintessential manual labor, right. These guy aren't  
25 walking around the shop in a suit and tie. They are

1 walking around the shop, they are in work clothes, they  
2 got their work gloves on, getting in there, they are  
3 using their hands, and they are getting dirty.

4 So, let me pause for one second because you  
5 might be wondering why I spent so much time talking  
6 about the work that these crane operators are doing.  
7 This is an overtime case and I haven't yet mentioned  
8 what their hours were or how much they got paid.

9 Whether an employee is entitled to overtime  
10 pay under federal law depends in part on what job duties  
11 they are performing.

12 You heard the judge tell you that a minute ago  
13 and the judge is going to give you a lot more  
14 information about that at the end of the week. So, I'm  
15 not going to discuss what the law is right now.

16 So, I'll tell you very generally what the law  
17 says is that employees who perform kind of blue collar  
18 manual labor, generally speaking they are entitled to  
19 overtime pay; and employees who do kind of white collar  
20 administrative, executive work, those type of employees  
21 are generally exempt from overtime laws and not entitled  
22 to overtime pay.

23 So, one of the questions you'll be asked to  
24 decide at the end of this week is whether these crane  
25 operators were doing blue collar manual work or whether

1 they were doing executive, administrative, more white  
2 collar functions.

3 Here is what the evidence is going to show on  
4 that point. Of course, the crane operators weren't  
5 doing executive, administrative functions. They are  
6 crane operators. Their job was to operate the cranes.  
7 They are spending their days at wellsites, picking up  
8 pressure control equipment and putting it on the well,  
9 taking it off, doing work in the shop. That's the type  
10 of work that these guys were doing.

11 They weren't interviewing job applicants.  
12 They weren't hiring people. They weren't sitting at a  
13 desk. They didn't have a computer or printer. They are  
14 not doing spreadsheets. They are not filling out the  
15 company's taxes. They are not doing the kind of back  
16 office work that you would imagine a more white collar  
17 employee might do.

18 These guys are working on the garage floor  
19 using their hands, doing that kind of manual labor.

20 Now, the evidence is going to show that the  
21 crane operator is the lowest person on the totem pole at  
22 the company. If you picture an organizational chart at  
23 the company, they're at the bottom of the organizational  
24 chart.

25 So, let's talk about what that organizational

1 chart will look like over the course of this week. Oil  
2 States is a Texas company and they divide their  
3 operations into different regions around the country.  
4 The Canonsburg shop where these folks work, that's in  
5 the northeast region. That covers all of Pennsylvania  
6 and West Virginia. There is a northeast regional  
7 manager who is in charge of that region. He is in  
8 charge of strategy. The evidence will show he is making  
9 big decisions about running the company, whether to buy  
10 new equipment, whether to hire certain types of  
11 employees, those type of decisions.

12 Under him is a district manager. The district  
13 manager is in charge of the Canonsburg shop. That is  
14 his domain, his fiefdom, and he oversees everything  
15 that's going on there.

16 If the regional manager decides whether to  
17 hire someone, the district manager is the person who is  
18 doing the hiring. He is running operations. He is  
19 overseeing all of the different people who are working  
20 at the Canonsburg shop.

21 Underneath him is an assistant manager. The  
22 assistant manager is the district manager's right hand  
23 man. He is helping out with these administrative tasks.  
24 He is supervising people. He is doing a lot of the  
25 administrative supervisory tasks that the district



1 manager doesn't have time to do.

2 So, you got a regional manager, a district  
3 manager, and an assistant manager.

4 Under the assistant manager at the relevant  
5 time, you had a field service manager. The field  
6 service manager was the person who oversaw people like  
7 the crane operators, the field employees on a day-to-day  
8 basis.

9 The field service manager would travel to the  
10 wellsite, travel to these gas wells, and he would make  
11 sure everything is running smoothly, he would make sure  
12 the equipment was operating properly.

13 If something happened in a wellsite, the crane  
14 operators would call that guy and say here is what is  
15 going on, can you come out and tell me what you want me  
16 to do. He is the fourth level of supervision at the  
17 Canonsburg shop.

18 Under the field service manager, you got  
19 another layer. There is an operation supervisor. They  
20 are called dispatchers. The operation supervisors, when  
21 one of Oil States' customers, Shell, Chevron, those type  
22 of companies, when they want to hire Oil States, they  
23 call the company and say hey, we're going to frack this  
24 well in Ohio in two weeks, we would like Oil States to  
25 do pressure control work, can you give me a crane, crane

1 operator, and some pressure control equipment.

2 Those calls go into the operation supervisors  
3 and they're the people who make the decision about which  
4 crane operator is going to go on which job, which crane  
5 will be used on which job. They are kind of dealing  
6 with logistical issues.

7 So, you got the regional manager, the district  
8 manager, the assistant manager, the field service  
9 manager, and the operations supervisor.

10 At the bottom of this chart you got a crane  
11 operator. Crane operator, the evidence will show, he is  
12 not -- no one is reporting to him. No one is coming to  
13 him and saying can you sign off on my hours. He is not  
14 directing the work of anyone. He is not telling anyone  
15 else what to do. He is the guy that goes and does the  
16 work.

17 There are all these other people doing  
18 executive and administrative tasks. The crane operator  
19 is the guy, when Oil States gets hired to do a job, he  
20 gets sent out and he operates the crane. He is not  
21 overseeing anyone's work and you are going to hear a lot  
22 of evidence about that this week.

23 Let me take a second and talk about the  
24 vehicles that the plaintiffs use to do their work. Now,  
25 you might wonder why I would possibly want to sit here

1 and talk about the trucks they use.

2 Strangely enough, one of the issues in this  
3 case is whether the plaintiffs, whether the crane  
4 operators were using work trucks for their work.

5 Now, the evidence is going to show, and I  
6 don't think anyone is going to dispute this, that each  
7 of these four crane operators had an assigned company  
8 pickup truck. Like you would imagine a construction  
9 worker might have a company truck, these crane operators  
10 had a company truck.

11 Three of them had a Ford F-150, lightweight  
12 truck. One of them had a Ford F-250. These are all  
13 pretty small, standard work trucks. The evidence will  
14 show they used these trucks to do their work. They used  
15 these trucks to carry the chains and slings and  
16 screwdrivers and hammers and wrenches, the stuff they  
17 needed to operate a crane at a wellsite.

18 They drove these trucks to and from the  
19 wellsites. They used these trucks to go buy parts.  
20 They used these trucks -- when you park a crane at a  
21 wellsite, once it's parked, you can't just get it out of  
22 there, you have to bring the fuel to the crane. So,  
23 they had a spare diesel tank in their pickup trunk.  
24 They would go fill up that diesel tank and bring the  
25 diesel to the worksite and every couple of days, they

1 would refill the crane, typical work truck.

2           You are also going to hear evidence that the  
3 plaintiffs typically stayed in hotels when they were  
4 working on these jobs. These jobs, like I said, they  
5 can be off in the mountains of Ohio, West Virginia,  
6 remote parts of Pennsylvania. They are not close enough  
7 to be driving home every day, especially when you are  
8 working a 12-hour shift every single day.

9           So, they would typically work and they would  
10 typically spend their nights at whatever the closest  
11 motel was. The evidence will show these are remote  
12 places, they are not close to cities or towns, so the  
13 nearest hotel oftentimes was 45 minutes or an hour away,  
14 and they would use their work trucks to get from the  
15 work site to the hotel and back every single night.

16           So, over the course of the next couple of days  
17 you are going to hear from the crane operators and they  
18 are going to tell you about the different kind of tricks  
19 that they used their work trucks to do. I just want you  
20 to think as you are listening to that evidence, whether  
21 those are work duties, whether they are performing work  
22 when they are using those trucks.

23           Okay. Hopefully, I have given you some  
24 overview of what the evidence will show about the  
25 plaintiffs' job duties, now let me talk a little bit

1 about their compensation structure.

2 The compensation that the crane operators  
3 received, it varied from year to year, person to person,  
4 but generally speaking, during the relevant time  
5 periods, these crane operators received total  
6 compensation of between \$90,000 and \$120,000 a year. In  
7 busier years, it could be a little bit higher but it was  
8 generally in the relevant time period around \$100,000 a  
9 year.

10 Now, there were two components to that pay.  
11 First, there was a salary. Now, the evidence will show  
12 that the salary is a fixed salary. It's a salary that  
13 you might imagine what a salary is. It didn't vary from  
14 month to month or from week to week, it was the same  
15 salary every single two weeks. That's how often they  
16 got paid.

17 The evidence will show they didn't get more  
18 salary when they worked 60 hours versus 40 hours, they  
19 didn't get more salary when they worked 80 hours or 100  
20 hours. The salary was the same no matter how many hours  
21 they worked.

22 The other component of their pay was something  
23 called a job bonus. A job bonus basically means if the  
24 company charges Shell or Chevron for one day of renting  
25 the crane, the crane operators got paid a cut of that.

1 They got paid a bonus based on the work that had been  
2 done.

3           You're going to hear the amount of the job  
4 bonus, it varied depending on the size of the crane  
5 you're operating but generally speaking, it was about  
6 \$450 per day for the smaller crane and about \$480 for a  
7 larger 100-, 110-ton crane.

8           Now, the plaintiffs don't deny they received  
9 these job bonuses. In fact, when they testify, they are  
10 going to tell you all about the job bonuses, but the  
11 evidence is going to show these job bonuses were not  
12 overtime payments. They didn't get a higher job bonus  
13 when they worked 80 hours. The amount of the job bonus,  
14 like I said, it was always \$450 to \$480 depending on the  
15 type of crane you operated.

16           So, the crane operators never received time  
17 and a half overtime when they worked more than 40 hours  
18 a week.

19           Here's the thing. The evidence will show Oil  
20 States knew it was supposed to be paying overtime  
21 instead of these job bonuses.

22           The company knew that it was required to treat  
23 the crane operators as nonexempt employees. It knew  
24 that when they worked more than 40 hours in a week, it  
25 had to be paying them time and a half overtime.

1           The evidence will show that Oil States  
2           disregarded these obligations. The company decided it  
3           would stick with its own pay system even if that system  
4           violated federal labor laws. You are going to see a lot  
5           of evidence of this.

6           Let me describe what it is. You are going to  
7           see the videotaped testimony of a fellow named Terry  
8           Woodall. Mr. Woodall was under oath when he gave this  
9           testimony.

10           In that testimony you'll see Mr. Woodall  
11           describe that he is the vice president of Human  
12           Resources for Oil States. He is the head of all HR for  
13           the company, overseeing all of the regions, all of the  
14           districts.

15           Mr. Woodall is going to tell you the type of  
16           work the crane operators did, picking up a valve or a  
17           stack, putting it on the well, setting it down, picking  
18           it up, taking it off, setting it down. You will hear  
19           him say that type of work is nonexempt work, meaning the  
20           employees are entitled to receive overtime under federal  
21           law.

22           You will also hear Mr. Woodall say he was the  
23           final person, he made the decision of which employees  
24           were entitled to overtime. No one us at Oil States was  
25           allowed to overrule him if he decided an employee should

1 get overtime. You'll hear him say that these crane  
2 operators were supposed to be getting overtime.

3 It's not just Mr. Woodall you are going to  
4 hear from, you'll also see the videotaped testimony of  
5 Jill Curry. Jill Curry had Mr. Woodall's job before he  
6 did. She was the vice president of Human Resources for  
7 the whole company from about April of 2011 until July of  
8 2013.

9 Ms. Curry is going to tell you the same thing  
10 that Mr. Woodall did. She was there when all four of  
11 these crane operators were there, and she is going to  
12 tell you that it was her understanding that the crane  
13 operators were getting paid overtime. She is going to  
14 tell you it was her understanding that these were  
15 nonexempt employees and that if the Human Resources  
16 Department decided an employee should be getting paid  
17 overtime, no one had the authority to overrule her on  
18 that point.

19 Okay. The third piece of evidence you are  
20 going to see on this is a job description for the crane  
21 operator job position, the job these four gentlemen did.  
22 You are going to see at the top of this job description  
23 there is a box describing what the job is when it was  
24 created. One of those boxes says FLSA status.

25 Now, the evidence will show the FLSA -- that's



1 the federal labor law -- so the evidence will show that  
2 this box says essentially does this employee -- are they  
3 entitled to overtime under federal law.

4           You will see on this job description it  
5 describes the crane operator job as a nonexempt  
6 position. You will hear evidence nonexempt means -- you  
7 heard the judge say there are exemptions involved in  
8 this case. If you are nonexempt, the evidence will show  
9 you are entitled to overtime.

10           You will see a job description that says the  
11 crane operators were nonexempt employees who were  
12 entitled to overtime compensation. Okay.

13           You are going to hear from Mr. Woodall, you  
14 are going to hear from Ms. Curry and see the job  
15 description, all of which says, hey, crane operators  
16 need to be getting paid time and a half overtime.

17           That's going to be the most important evidence  
18 you might hear all week is that evidence. The company  
19 knew what it was doing and decided to do something else.

20           So, the next thing, the last thing I want to  
21 discuss is the hours that these crane operators were  
22 working at the wellsites.

23           Between 2012 and 2015, that's the time period  
24 we're focused on in this case, between 2012 and 2015,  
25 the crane operators worked something called a 30 and 10

1 schedule. A 30 and 10 schedule means you work for 30  
2 straight days and then you get ten days off. You don't  
3 have a standard five-day workweek. You work 30 straight  
4 days and then ten days off.

5           During those 30 days on, the evidence will  
6 show that the crane operators worked incredibly long  
7 hours. Now, their hours varied from year to year, even  
8 month to month because the evidence will show that  
9 business slowed dramatically towards the end of 2014 and  
10 early 2015 as the oil price decreased. So, you'll see  
11 the crane operators generally were working fewer hours  
12 during that time period.

13           During all of these periods, all of 2012,  
14 2013, 2014, the evidence will show the crane operators  
15 are working extremely long hours.

16           We're going to show you some documents that  
17 show Mr. Pickel, for example, worked four or five  
18 straight 24-hour shifts nonstop, wasn't allowed to leave  
19 the wellsite, had to be ready to work all the time.

20           Mr. Pickel will tell you that he could catch  
21 an hour or two of sleep here and there but that he  
22 couldn't go to sleep because at any time the company man  
23 can bang on his window and say it's time to go.

24           Now the evidence is going to show that these  
25 fracking operations, they are 24-hour jobs, 24/7

1 fracking work is going on. Normally, the operators,  
2 they worked 12-hour shifts. They would split it up.  
3 They would be in teams of two and someone had the  
4 dayshift and someone had the nightshift. They were  
5 working 12-hour shift, 12-hour shift, 12-hour shift, but  
6 sometimes, as I said, they didn't have relief and so  
7 they would just work the entire 24-hour shift.

8           You're going to see evidence that Mike  
9 Burchik, for example, the third gentleman in,  
10 Mr. Burchik had a stretch in early 2013 when he worked  
11 42 out of 43 days at a wellsite, averaging 12 hours a  
12 day for 42 out of 43 days. That's not even the worst.  
13 I will show you documents that show Mike Burchik later  
14 in 2013 worked 70 out of 72 straight days at a wellsite,  
15 average of 12-hour shifts each of those days, sleeping  
16 in a hotel, didn't get to see his wife, didn't get to go  
17 home, working that entire time.

18           Now, during the ten days off, the crane  
19 operators could watch football, they could hang out with  
20 their kids, they could do what they wanted to do. They  
21 would do what you and I might do on a weekend.

22           The evidence will show they didn't get to  
23 always take their days off. I just described a  
24 situation where Mr. Burchik had to work 42 out of 43  
25 days. Another time Mr. Burchik worked 70 out of 72

1 days. If you missed your days off, you didn't get to  
2 make them up when that job ended. If you worked through  
3 the days off, you would work straight into the next 30  
4 days on.

5 So, you can work 30 days on, you work through  
6 your days off and you're back to 30 days on, 70 days in  
7 a row of work and then maybe you would get the next days  
8 off.

9 Now, these crane operators, a couple of them  
10 tried to take their days off so they could get home to  
11 see their families. Some of them preferred the money  
12 and they wanted to work through the days off.

13 The plaintiffs will be the first to tell you  
14 they weren't always complaining about the long hours,  
15 sometimes they were, sometimes they weren't, but the  
16 evidence will show that they were working on these  
17 wellsites an average of 12 hours for days and days and  
18 days on end.

19 Now, these work hours are important to this  
20 case because aside from the question of whether the  
21 crane operators should get overtime, if you decide they  
22 should have been paid overtime, as their Human Resources  
23 Department said they should have, you will be asked to  
24 decide how much overtime they should be paid.

25 At the end of the week, the judge is going to

1 explain how you calculate overtime in a case like this,  
2 but basically overtime is based on the number of  
3 overtime hours you work.

4 So, one of the things we are going to present  
5 to you this week is evidence about the number of  
6 overtime hours that each of these plaintiffs worked.

7 Now, that's going to be a little difficult  
8 because the evidence will show that Oil States didn't  
9 use a time clock. These guys didn't punch in and punch  
10 out when they showed up at the shop, they didn't punch  
11 in punch or punch out when they went to the wellsite, so  
12 figuring out their overtime hours is not as easy as  
13 printing a spreadsheet or printing a time report, adding  
14 it up and saying here you go, I worked a thousand  
15 overtime hours.

16 So, the evidence will show the plaintiffs have  
17 done their best to piece together their overtime hours  
18 from a lot of different documents.

19 Remember I said they kept that notepad in  
20 their back pocket where they described what kind of work  
21 they were doing, and so the plaintiffs will tell you  
22 that they have gone through these notebooks and tried to  
23 figure out how many hours they worked at the wellsites  
24 when they were there and the hours in the shop.

25 The other point, they also had other

1 documents, they had job logs, other documents that the  
2 company kept that showed how many days they were working  
3 at the wellsites.

4 So, the plaintiffs will tell you they have  
5 done their best to kind of figure out and come up with  
6 their best estimate of the overtime hours they worked.

7 Now, the plaintiffs also used these documents  
8 to come up with an estimate of the hours they worked in  
9 the shop and there aren't a lot of documents showing  
10 their shop hours because the company generally didn't  
11 keep any records of the hours they worked in the shop.

12 They'll tell you they tried to estimate based  
13 on the length of a typical shift at the shop, they tried  
14 to come up with their best estimate of their shop hours.

15 This has been made a little more difficult  
16 because the crane operators, these plaintiffs, they  
17 don't have all of these documents. They turned most of  
18 these into Oil States while they worked there and they  
19 didn't keep copies of them.

20 So, they have taken what they received from  
21 Oil States and have taken what they have themselves, and  
22 to the extent they kept any notes, they tried to figure  
23 out what their hours were. You will see evidence for  
24 some periods the plaintiffs don't have documents showing  
25 what their hours were and no one does.

1           So, the documents that the plaintiffs filled  
2 out, the documents the plaintiffs used to keep records  
3 of their hours, they don't have those documents anymore.

4           So, the plaintiffs are going to describe for  
5 you how they tried to come up with an estimate of their  
6 work hours during those time periods when they don't  
7 have documents. They are going to describe for you the  
8 process they went through, why they reasoned through it,  
9 why they made certain decisions about, well, I think I  
10 worked this many hours on this day because of X and they  
11 are going to explain that process for you.

12           Now, you are going to see the plaintiffs get  
13 attacked for these estimates. You are going to see the  
14 plaintiffs questioned over how accurate these estimates  
15 are, whether they are reliable.

16           You are going to see, I believe, the evidence  
17 is going to show you the plaintiffs have done their best  
18 with the information that's available to them. They may  
19 not be perfect. The plaintiffs will be the first people  
20 to tell you the estimates they came up with aren't  
21 perfect. The plaintiffs are going to tell you they  
22 think they're accurate. If anything, they think they  
23 are conservative. They tried to give the benefit of the  
24 doubt to the company because they didn't want to come in  
25 here and have you think they were trying to gouge the

1 company.

2           So, they are going to tell you that there was  
3 some doubt about whether I was working that day, I tried  
4 to give the benefit of the doubt to the company.

5           I believe the evidence at the end of the week,  
6 the evidence is going to show that these estimates, they  
7 are reliable. They are pretty accurate. They were done  
8 in good faith. If anything, they might be a little bit  
9 conservative.

10           At the end of this week, I'm going to have an  
11 opportunity to come back and talk to you again as Judge  
12 Kearney said. At that time, we'll talk about the  
13 specific amount of overtime pay that these crane  
14 operators are owed under federal law.

15           We'll talk in more detail about the federal  
16 overtime laws and how they apply to the work that these  
17 plaintiffs did.

18           I will ask you whether I lived up to the  
19 promises that I made to you today. I'll ask you whether  
20 the evidence actually shows what I said it was going to  
21 show.

22           Until then, I ask you to please listen closely  
23 to the evidence. Please listen closely to the  
24 witnesses, listen to their testimony, look at the  
25 documents, look at the evidence we present to you over



1 the next week.

2 I ask you when you listen to these four guys  
3 testify, ask whether you think they are honest,  
4 hard-working blue collar workers, make that decision for  
5 yourself.

6 I ask you to pay attention to the witnesses  
7 that Oil States puts on, pay attention to the documents  
8 they put on and make your assessment of those documents.

9 I'll ask you to pay attention to whether the  
10 company explains why it ignored the Human Resources  
11 Department's determination that these crane operators  
12 were entitled to overtime.

13 At the end of this week, I'm going to come  
14 back to you and I'm going to ask you to award overtime  
15 pay to Mike, to Wayne, to Jason, and to Robert for the  
16 overtime hours they worked.

17 Thank you very much for indulging me and for  
18 listening to me this morning.

19 Thank you very much for serving this  
20 incredibly important function.

21 THE COURT: Thank you.

22 Counsel for the defense, do you wish to  
23 provide a statement?

24 MR. DAVIS: Yes, Your Honor. I'll need to use  
25 the easel as part of my opening.

1 THE COURT: Have they seen what you are going  
2 to show?

3 MR. DAVIS: I was going to draw something.

4 THE COURT: No, you're not.

5 MR. DAVIS: Okay.

6 Good morning, ladies and gentlemen.

7 Again, I'm Bill Davis and I'm here with Adam  
8 Fowler who is the manager of the Canonsburg location.

9 You're going to hear from him about how what's  
10 just been described to you is not entirely true. Adam  
11 is a good person to do it because he grew up in the oil  
12 field. He started working in the oil field when he was  
13 18 years old in the same job that these guys did and  
14 actually worked right alongside them.

15 He knows a lot about this type of business, a  
16 lot about the pay plan and knows what was the right pay  
17 plan for this job.

18 Let me tell you, first, what the case is not  
19 about and I think we are all in agreement. It's not  
20 about a situation where somebody was promised some  
21 money, promised some pay and didn't get it.

22 Everyone agrees that when each of these  
23 gentlemen came to work for Oil States, they came because  
24 of the pay plan. It was a salary pay plan with very big  
25 job bonuses. They were paid all their salary that they

1 were promised and they were paid every single job bonus  
2 they were promised.

3 That salary was paid to them whether they were  
4 working or not. For their ten days off, they got the  
5 salary. When things are slow in the oil fields and  
6 there is no work, they get their salary; but the big  
7 thing they wanted was this job bonus, \$450 for a 12-hour  
8 shift but you don't actually have to work the full 12  
9 hours, you could be out there as little as five hours  
10 and you get the \$450.

11 What matters was, was the customer happy with  
12 the pressure control services that was performed. If  
13 you could get it done in five hours, you got the \$450  
14 hour bonus.

15 There was a mention of 24-hour shift. People  
16 didn't actually have to work 24 hours but if they did  
17 two shifts, whether they were working or not, they got  
18 double the bonus, so as much as \$900 for being out there  
19 at the wellsite. That was what they wanted. That's  
20 what they were promised, and that's what they were paid.

21 Now, the one thing Mr. Warren said that really  
22 bothered me was saying these guys were low man on the  
23 totem pole, and I'll tell you when you hear from Adam,  
24 he's going to tell you that's just not true because he  
25 worked right alongside them and did that job, and you

1 are not low man on the totem pole because what they are  
2 doing out there and what Oil States states is pressure  
3 control.

4           Mr. Warren did a good job of describing that  
5 but he left out some things. So, first of all, the  
6 customer is someone who has drilled a well and they  
7 found some gas down there and through pretty cool  
8 technology, they drill down and they bend a bit and make  
9 it go into that gas formation but they put in a pipe and  
10 the pipe is sealed.

11           When they blow those holes in the pipe, you  
12 got as much as 15,000 pounds per square inch of  
13 flammable stuff wanting to get out.

14           The only psi I deal with is my car tires. You  
15 put in about 35 psi. This is 500 times that amount of  
16 pressure with flammable stuff getting out.

17           What Oil States sells and what the customer  
18 wants is really talented people out there who can  
19 control that pressure while this wireline goes down in  
20 there and blows holes with explosive in the pipes so the  
21 gas can come up.

22           They don't want a low man on the totem pole,  
23 they want people who are really good at what they did,  
24 and these gentlemen were really good at what they did.

25           Now, let's talk about their job for a minute.

1 They were not the type of crane operators like you would  
2 see -- the only cranes I see, I see the big ones down  
3 town that are like this (indicating) building stuff.  
4 That's not the type of crane.

5 I see the ones that come from Home Depot that  
6 have a little arm on them and they pick up a pallet of  
7 shingles sort of over here (indicating), not a big deal.

8 These cranes are part of the pressure control  
9 operation with very precise computers in them, and as  
10 far as manual labor, they have a joy stick and buttons  
11 and they extend out 100 feet, at far distances in a  
12 dynamic environment where there is a lot of stuff going  
13 on.

14 A crane operator for this type of job, No. 1,  
15 has to go out there and assess the site. There are  
16 multiple wells that they have to stab this pressure  
17 control equipment on that is very tight tolerances. It  
18 is so precise and very difficult it's not something you  
19 want a low man on the totem pole crane operator doing,  
20 but they're part of a bigger team. It's a two-man team  
21 but it's a team.

22 Now, in addition to this crane that goes out  
23 there that has to be very precise, very accurate and  
24 move very heavy things from different wells, there is  
25 also what they call a grease machine.

1           Now, in the oil patch, I don't know if anybody  
2 knows people in the oil patch, they talk in slang. This  
3 machine is a grease injection machine that people just  
4 call it the grease.

5           The people who work out there have formal  
6 titles. They are called field service supervisors.  
7 When you are going and selling pressure control to a  
8 customer, you want to say we are sending our field  
9 service supervisor out there, but the slang they have  
10 names for each other.

11           Some people call the guy who runs the grease  
12 injection the greaser, the grease man. They call the  
13 people who operate the crane the crane operators, but  
14 what Oil States is selling and what they're doing out  
15 there is for pressure control and the formal title is  
16 field service supervisor.

17           When Mr. Warren talks about Human Resources  
18 saying, oh, these guys are exempt, well, Human Resources  
19 views it just like what the company is selling. We are  
20 selling very important pressure control services and if  
21 you get it wrong and this stuff gets out of the ground  
22 at 15,000 psi, you can end up with a situation like you  
23 saw out there on the Deepwater Horizon.

24           Now, to try to get you to the point of saying,  
25 you know what, they should have gotten overtime despite

1 their \$100,000 a year plus compensation, and Mr. Pickel,  
2 I think he was the highest paid, he was over \$150,000 a  
3 year one year, what they want to do is reach back in  
4 time to a law that was written in 1938 when things were  
5 a lot different, low pay, people not getting paid what  
6 they were promised, and they want to make this job, a  
7 hundred-thousand-dollar-a-year-plus job sound like  
8 manual labor and sound like low man on the totem pole,  
9 and it was not.

10 We are going to walk you through all of the  
11 stuff they do that's not manual labor. They have job  
12 safety meetings, they do a lot of paperwork, and when  
13 they're operating the crane, it's a joy stick, it's  
14 buttons, and it's a computer doing very precise work.  
15 That's not manual labor.

16 Now, in addition, when you only have two  
17 people out there on the site and one is operating the  
18 machine that is monitoring the pressure and you have to  
19 keep making adjustments because what is down in the  
20 ground is unpredictable, as we saw with Deepwater  
21 Horizon, people think they know what is going on there  
22 but they don't, they have to be involved in monitoring  
23 this pressure control.

24 If the guy who is operating the pressure  
25 control machine has to go to the restroom, has to go do

1 something, the crane operator steps in. They don't just  
2 sit in the crane and say, wow, that's looking like it's  
3 about to blow up but I just operate the crane. They're  
4 part of these teams that goes out there.

5           So, listen carefully to the testimony and as  
6 you're listening to it, say why were they paid over  
7 \$100,000 a year. The reason was Oil States believed  
8 that they were part of this professional team going out  
9 there, doing the work that Oil States sold to its  
10 customers and that's why they were paid that much money.

11           The good news is this 1938 law was updated not  
12 long ago and you'll hear about what's called the highly  
13 compensated exemption. Some of you may have heard about  
14 it. It's where you make over \$100,000 a year.

15           The judge will instruct you on the law, what  
16 it says, but what you'll hear Mr. Fowler and others say  
17 that their understanding was if you make over a hundred  
18 thousand dollars a year, that's a good indicator that  
19 you are doing a thinking job because we are paying you  
20 to do something important and think.

21           You don't need to spend a lot of time looking  
22 at the details of the job, but the details of the job  
23 here are fine. There is enough of it that is nonmanual.  
24 Yeah, sometimes they have to get out there and connect  
25 pipes or help connect things or clean the machinery in



1 the shop. Sometimes they have to do that but their pay  
2 takes care of that because they are highly compensated.

3 With respect to the trucks, some of you -- I  
4 think someone who came up said they know a little bit  
5 about truck drivers and their pay and you can pay them  
6 on different pay plans like by the mile, by the load,  
7 and it takes care of getting them paid enough money to  
8 where they're fairly compensated. You don't have to  
9 include an overtime piece in that because the pay plan  
10 makes sense.

11 If someone is driving a lot of miles, they  
12 make a lot of money; if they're hauling big loads, they  
13 make a lot of money so you don't have to include  
14 overtime in there.

15 Well, there is no dispute that Oil States  
16 qualifies as a motor carrier, no dispute at all.

17 There is no dispute that a lot of times when  
18 they take the cranes or other equipment out there, these  
19 guys drive them, and when you are driving heavy  
20 equipment in big trucks across state lines, you can use  
21 one of these alternative pay plans like Oil States has  
22 here. It doesn't need to include an overtime component.

23 The creative way they are trying to get around  
24 that, just like they are going to describe this as  
25 manual labor, low man on the totem pole, is to say, hey,

1 hold on a minute. I agree if I'm driving a big truck  
2 that you have to wrestle down the highway, I wouldn't  
3 need to get the overtime but when you put me in an F-150  
4 that you can drive like this, it blows the exemption so  
5 I should get overtime for that.

6 The bottom line on that one is what were they  
7 hired to do. Were they hired -- and they were given  
8 these pickup trucks, and Oil States paid for the gas.  
9 They could take them home on their days off. I believe  
10 Mr. Eddy lived about 120 miles out. He drove back and  
11 forth, and Oil States paid for his gas because Oil  
12 State's view was these were commuting vehicles. It was  
13 a nice perq for the job because they really wanted to  
14 keep these guys and gave them this nice perq and now,  
15 they are trying to use this perq against the company and  
16 say, you know what, if I had to drive my own car back  
17 and forth to work, we still would get motor carrier, but  
18 since you gave me this pickup truck, my recollection is  
19 that was my job to drive the pickup truck and it wasn't.  
20 That is not why they paid them so much money.

21 So, listen carefully to that. It is creative  
22 but we don't think it makes them entitled to overtime  
23 pay.

24 Mr. Warren mentioned hours. We don't think  
25 it's necessary to get to the hours question in this case

1 because they were salaried and they agreed to the salary  
2 pay plan that paid them all their salary plus a big job  
3 bonus, but if you do, we're going to take issue with  
4 this notion that because there is no records, they can  
5 go out the deep end in estimating.

6           There is a very good record out there which  
7 you'll see of how long they were spending working, where  
8 they were working, and whether they were really working  
9 these long stretches with no time off.

10           In about March of 2014, the company with their  
11 knowledge installed GPS trackers in all of these trucks  
12 and these GPS trackers tell you exactly what time the  
13 truck was turned on, how long it was driven, when it  
14 stopped, where it stopped, and how long it was there.

15           Although they claim they weren't provided with  
16 those records, they've had them for over a year and a  
17 half. They just don't want to talk about them because  
18 what these records will show is what I told you early  
19 on, sometimes they would get to the wellsite and nothing  
20 is happening, so they would leave and they would still  
21 get their job bonus.

22           Sometimes they would get to the wellsite and  
23 they would be there five hours and they would be gone  
24 and get their job bonus.

25           Sometimes they would be there a lot longer

1 because things go wrong at the wellsite and it will show  
2 you they were there a lot longer but that will tell you  
3 they weren't working.

4 The most troubling one is when they gave us  
5 estimates, they included 12, 12, 12, 12 for several days  
6 when their truck was sitting at their home and the GPS  
7 shows that. They also added time for weekends and  
8 holidays when the shop was closed.

9 So, we know from the tracking that they  
10 weren't at the wellsite, they weren't at the shop, and  
11 the GPS says they were either at home or the truck was  
12 somewhere else.

13 You know, nobody is criticizing them for using  
14 the truck on their days off to go to a restaurant or  
15 things like that. That was fine. That was one of the  
16 perks and they did it and the tracking will show that.

17 So, if you have to get to the hours question,  
18 pay attention carefully to the evidence because we think  
19 they really overestimated here.

20 The last one you will have to be deciding is  
21 willful, and Mr. Warren mentioned that. When they say  
22 "willful" or "intentionally violating the law," they are  
23 going after Adam Fowler, and he really takes offense to  
24 that because he worked side by side with these guys and  
25 he'll tell you he made more money than he's ever made in

1 his life working side by side with them.

2 In fact, when he got promoted, he took a pay  
3 cut. That's how good this pay plan is. He never  
4 thought either when he was working that that pay plan  
5 violated some law. He loved it. He made a lot of  
6 money.

7 He never thought when he was a manager that  
8 the pay plan violated the law because he knew the pay  
9 plan, he knew what you did to get it and he, too, felt  
10 like these guys, you know, we're happy to pay them that  
11 much money because they are good at what they do, and  
12 they go out and they perform a professional job and they  
13 give us more business and he is happy.

14 He takes issue that there is a notion of an  
15 intentional willful violation of the law and he'll tell  
16 you about that.

17 So, we believe that -- they get to go first.  
18 You'll have to wait to hear from our witnesses but you  
19 will hear from Adam Fowler and you will hear from his  
20 manager who also believes Adam did the right thing in  
21 paying these people like they did.

22 We believe at the end of the testimony, you  
23 will find that this is a case about a deal is a deal.  
24 You come to work, you agree to the pay plan, it's a good  
25 pay plan, it pays you for all your hours worked and it

1 does, in fact, fit within these overtime exemptions.

2 Thank you.

3 THE COURT: Thank you counsel for your brief  
4 statement.

5 Ladies and gentlemen, we're going to take  
6 lunch now to a little bit after one o'clock. Let the  
7 deputy know if you need more time or less time. We'll  
8 be hear for you. We're planning on starting at one  
9 o'clock.

10 When we come back, the plaintiff will call  
11 their piece of evidence. Let's stand adjourned to the  
12 call of the jury to approximately one o'clock.

13 THE DEPUTY CLERK: All rise for the jury.

14 (Whereupon, a luncheon recess was taken.)  
15 (Afternoon session. In open court, jury present.)

16 THE COURT: Thank you. Please be seated.

17 Ladies and gentlemen, we are now beginning the  
18 evidence in the case.

19 I want to give you a couple stipulations.  
20 These are facts that the parties have agreed upon. This  
21 is evidence. You are looking towards the witness box  
22 and me, so I'm going to give you a couple pieces of  
23 evidence.

24 First, these about the four plaintiffs.

25 Plaintiff Michael Burchik was an employee of

1 defendant Oil States Energy Services, LLC., between  
2 April 22, 2012 and February 6, 2015.

3 Plaintiff Wayne Eddy was an employee of Oil  
4 States Energy Services, LLC., between April 22, 2012 and  
5 February 18, 2015.

6 Plaintiff Jason Lett was an employee of  
7 defendant Oil States Energy Services, LLC., between  
8 April 22, 2012 and July 24, 2013.

9 Plaintiff Robert was an employee of defendant  
10 Oil States Energy Services, LLC., between April 22, 2012  
11 and September 9, 2013.

12 Throughout their employment with Oil States  
13 Energy Services, LLC., these plaintiffs were engaged in  
14 commerce and the defendant Oil States Energy Services,  
15 LLC., was an enterprise engaged in commerce.

16 Defendant Oil States Energy Services is  
17 covered by and within the meaning of the Fair Labor  
18 Standards Act, which is the law I will explain to you  
19 later.

20 That is the, if I'm correct, counsel,  
21 Plaintiff, from your stipulations, that completes the  
22 stipulations for purposes of fact for my stipulation, is  
23 that correct?

24 MR. WARREN: Yes, Your Honor. Thank you.

25 THE COURT: If the plaintiff -- I think I

1 incorporated, Defendant, your stipulation as part of the  
2 last section?

3 MR. DAVIS: Yes.

4 THE COURT: Plaintiff, will you produce your  
5 first piece of witness.

6 MR. WARREN: Thank you, Your Honor.

7 The plaintiff would call Michael Burchik.

8 THE DEPUTY CLERK: Sir, please raise your  
9 right hand.

10 MICHAEL BURCHIK, one of the plaintiffs herein,  
11 having been duly sworn, testified as follows:

12 THE DEPUTY CLERK: Please be seated and state  
13 and spell your name for the record. Speak right into  
14 the microphone.

15 THE WITNESS: Michael Alan Burchik,  
16 M-i-c-h-a-e-l, B-u-r-c-h-i-k.

17 THE COURT: You may proceed, counsel.

18 MR. WARREN: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. WARREN:

21 Q. Good afternoon, Mike.

22 A. Good afternoon.

23 Q. Could you please tell the jurors where you live?

24 A. I live in Claysville, Pennsylvania.

25 Q. Where are you originally from?



**Michael Burchik - Direct**

1 A. Canonsburg, Pennsylvania.

2 Q. Are you married, Mike?

3 A. Yes, sir.

4 Q. How long have you been married?

5 A. 46, 47 years or so.

6 Q. How did you spend most of your career?

7 A. I worked on and off in the oil field for five  
8 years -- for five years I worked in the oil and gas  
9 field and prior to that, I worked down the street at  
10 Angelo's Landscaping Company.

11 Q. How did you begin your career?

12 A. In Oil State?

13 Q. No. In your early career, how did you spend most  
14 of your career?

15 A. I was in the military September of '91.

16 Q. Have you ever worked for Oil States?

17 A. No, sir, I haven't.

18 Q. And you said you have not worked for Oil States?

19 A. Not before this time, no.

20 Q. Have you worked for Oil States at some point in  
21 your life?

22 A. Yes, sir.

23 Q. What was the general time period you worked for Oil  
24 States?

25 A. February 2010 to February 2015.

**Michael Burchik - Direct**

1 Q. When you were working for Oil States, what location  
2 were you working out of?

3 A. I worked in the Canonsburg shop.

4 Q. In case the jurors aren't familiar with where  
5 Canonsburg is, can you say where that is?

6 A. It's about 20, 25 miles south of Pittsburgh.

7 Q. Did you apply to work at Oil States?

8 A. Yes, sir, I did.

9 Q. And did you submit a written application?

10 A. Yes, sir, I did.

11 Q. At the time that you applied to work at Oil States,  
12 were you working for any other company?

13 A. Yes. I was working for Angelo's Supply.

14 Q. Just give the ladies and gentlemen of the jury a  
15 brief overview of the type of work you were doing at  
16 Angelo's?

17 A. I worked in the supply yard, I run heavy equipment,  
18 loader, I run a dump truck, forklift, skid steer. More  
19 or less loaded vehicles and I also worked in the office  
20 part time.

21 Q. How did you come to learn about Oil States?

22 A. Oil States actually was right down the street from  
23 Angelo's and they had a job application in the  
24 newspaper, which I applied to.

25 Q. Do you recall which job that they were advertising

**Michael Burchik - Direct**

1 in that newspaper?

2 A. They were advertising for crane operators.

3 Q. You said you filled out a job application for Oil  
4 States?

5 A. Yes, sir, I did.

6 Q. How long after you saw that newspaper ad did you  
7 fill out a job application?

8 A. I believe it was within a week.

9 Q. I'm going to ask you to turn in the binder that is  
10 in front of you, turn to Tab No. 1.

11 Before you get into too much detail, identify  
12 what this document is.

13 A. Driver application for employment.

14 Q. Did you fill out that document yourself?

15 A. Yes, sir, I did.

16 THE COURT: You may publish.

17 MR. WARREN: Thank you, Your Honor.

18 Q. When you filled out this application, did you  
19 submit it to Oil States?

20 A. Yes, sir, I did.

21 MR. WARREN: I'm going to ask Milly to scroll  
22 to Page 2 of this application.

23 Q. When you filled out this application, does the  
24 application reflect the job position you are applying  
25 for, for Oil States?

**Michael Burchik - Direct**

1 A. Yes, sir, it does.

2 Q. If you look up at the top, it says, position  
3 applied for. What position is listed on that  
4 application?

5 A. It says crane operator.

6 Q. Is that, in fact, the job position that you applied  
7 for?

8 A. Yes, sir, it was.

9 Q. On the last page of the job application, if you  
10 could scroll through it.

11 At the bottom of the page, it's a little  
12 small, Milly might zoom in toward the bottom. It says,  
13 list special equipment or technical materials you can  
14 work with. Do you see that?

15 A. Yes, sir.

16 Q. What did you write in that blank?

17 A. Straight truck, which was a dump truck.

18 Q. Had you, in fact, operated a dump truck before?

19 A. Yes, sir, I did.

20 Q. I'm going to show -- do you see that arrow there?

21 A. Yes.

22 Q. Do you see that blank whether you had operated that  
23 certain types of equipment before you applied to work at  
24 Oil States?

25 A. Yes.

**Michael Burchik - Direct**

1 Q. What did you write in that spot?

2 A. Forklift, backhoe, and skid-steer.

3 Q. Just briefly in case there are some members of the  
4 jury who are not familiar with what those things are,  
5 can you describe what that equipment is?

6 A. Basically a forklift is a machine that's used to  
7 pick up and move certain types of equipment with forks  
8 and there are some different leverages to adjust the  
9 height.

10 Backhoe has a front loader bucket used by a  
11 hydraulic system and it has a digging hoe on the back of  
12 it and it's operated by using levers in order to dig.

13 And the skid-steer is basically a small  
14 bucket-type vehicle with a very small turning radius  
15 used -- commonly used to load and unload vehicles.

16 Q. Where had you operated that type of machinery  
17 before?

18 A. At Angelo's -- not only Angelo's but I had worked  
19 for a paving company in previous years that I did.

20 MR. WARREN: Milly, you can take that down.

21 Q. Mike, I ask you to turn to the second tab in your  
22 binder. Can you just briefly identify what this  
23 document is.

24 A. It's a document requesting information from your  
25 previous employer.

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1 Q. Did you fill this out yourself?

2 A. The top half of the document I did.

3 MR. WARREN: May I publish, Your Honor?

4 THE COURT: Please.

5 Q. If you look in the center of this document, I'll  
6 ask Milly to scroll in, do you see the line where I put  
7 that arrow, Mike?

8 A. Yes, sir.

9 Q. Can you just read for the jurors what that says.

10 A. It says, above-named individual has made  
11 application to this company for a position as crane  
12 operator.

13 Q. Was that, in fact, the position you applied for at  
14 Oil States?

15 A. Yes, sir, it was.

16 MR. WARREN: Thanks, Milly. You can take that  
17 down.

18 Q. Mike, when you submitted this application, did you  
19 interview with anyone at Oil States?

20 A. Yes, sir, I did, a supervisor.

21 Q. Do you recall his name?

22 A. Wayne Yates.

23 Q. During your interview with Mr. Yates, did you  
24 discuss the work you would be doing at Oil States?

25 A. Yes, sir. He in a nutshell described it as picking

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1 up valves, setting them aside and kind of repetition in  
2 operation.

3 Q. Did he tell you what type of equipment you would be  
4 operating at Oil States?

5 A. Yes. He showed me a picture of a crane I would be  
6 using.

7 Q. During that conversation with Mr. Yates, did the  
8 subject of pressure control equipment come up?

9 A. No, sir, it did not.

10 Q. Did Mr. Yates happen to say anything to you about  
11 whether the company would train you on operating  
12 pressure control equipment?

13 A. No, he did not.

14 Q. At the end of that job interview, did Mr. Yates  
15 offer you a position at the company?

16 A. Yes.

17 Q. What position did he offer you?

18 A. Crane operator's position.

19 Q. And what was your understanding of what your job  
20 title was at Oil States?

21 A. Crane operator.

22 Q. When you applied to work at Oil States, had you  
23 ever worked as a crane operator before?

24 A. No, sir, I had not.

25 Q. Had you ever operated a crane?

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1 A. Small little jib crane.

2 Q. Describe for the ladies and gentlemen of the jury  
3 what a jib crane is?

4 A. A jib crane is just basically an overhead crane  
5 that is tethered, remote buttons electrically activate a  
6 hook.

7 Q. Shortly after that interview, did you start working  
8 at Oil States?

9 A. Yes, sir, I started work that Monday morning.

10 Q. When you first started working at Oil States, for  
11 the first few months of your employment, what type of  
12 work were you doing?

13 A. I basically worked in a shop where I was learning  
14 the different types of valves within the oil and gas  
15 field.

16 Q. Who was teaching you about the different types of  
17 valves?

18 A. They had the frack people that actually worked with  
19 the valves on a daily basis. They basically tore them  
20 down, rebuild them, and send them back out to the field.

21 Q. What kind of things were they showing you while you  
22 were working in the shop?

23 A. Basically how to tear down, how they work, the  
24 different rings, the inside that has to be changed, the  
25 gate that showed if it needed repaired or what have you.



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1 Q. When you first started working at Oil States, how  
2 much time did you spend in the shop learning how to use  
3 this equipment?

4 A. Approximately two or three weeks. I'm really not  
5 sure at this time.

6 Q. Once you had finished that process, can you explain  
7 to the jurors what you started doing?

8 A. Basically they had me drive in a boom truck which  
9 is a crane truck.

10 Q. Could you just describe for the jurors what a boom  
11 truck looks like?

12 A. A boom truck, it was a flatbed truck with tandem  
13 wheels or triaxial wheels with a tad axle and it had a  
14 small crane on the back of it that's used to pick up  
15 equipment.

16 Q. Had you ever operated a boom truck before?

17 A. No, sir, I have not.

18 Q. Did anyone teach you how to use that boom truck?

19 A. Yes, sir. We had a previous gentleman. He lost  
20 his license and he showed me how to operate it.

21 Q. Do you happen to remember his name?

22 A. Only his street name.

23 Q. What was his street name?

24 A. Gator. I didn't know his real name.

25 Q. How long did Gator spend teaching you how to

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1 operate a boom truck?

2 A. Well, it was fairly simple. It's only a couple  
3 levers. He operated -- it's more or less you have to  
4 get into the manufacturer's book to study the different  
5 loads you can pick up at certain distances, and I  
6 probably did it for about 30, 40 minutes before I could  
7 operate it.

8 Q. Were you able to operate the boom truck after 30 or  
9 40 minutes?

10 A. Yes, sir. It was fairly easy.

11 Q. Once you started operating the boom truck, can you  
12 tell the jurors what you were doing with the boom truck?

13 A. Basically, my job was to pick up valves which were  
14 commonly referred to as frack stack. They would be on  
15 skids. I would pick it up and put it on the flatbed.

16 I normally carried two of them and would drive  
17 to a location and I would set them on a well and they  
18 would be bolted to the wellhead.

19 Q. I'm going to ask you if you could in your binder  
20 turn to Tab 68. Could you briefly identify what is  
21 shown in that document?

22 A. It's a picture of a well pad with three, looks like  
23 three wellheads and a crane off into the distance.

24 Q. Is this a fair and accurate representation of the  
25 type of scene you were working at for Oil States?

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1 A. Yes, sir, it is.

2 MR. WARREN: May I publish that, Your Honor?

3 THE COURT: Yes.

4 Q. So, just to give the jurors a sense of what this  
5 equipment is, can you go through and if you touch the  
6 screen, it will actually put a pointer on there.

7 Can you identify for the jurors what this  
8 different equipment is.

9 A. These are the different frack stacks. This is one,  
10 this is two, this is three (indicating). They are  
11 already assembled and right up here (indicating), the  
12 crane had just set a BOP on top of that third frack  
13 stack.

14 Q. And the frack stacks, are these the valves you were  
15 talking about a minute ago?

16 A. They are referred to as valves, yes.

17 Q. Is this the equipment that you were bringing to the  
18 wellsite with the boom truck?

19 A. Exactly.

20 Q. So, describe what you would use that boom truck to  
21 do with these frack stacks?

22 A. Well, when I would bring them with the boom truck,  
23 all of this equipment would not be there. It would be  
24 just completely vacant and I would actually take this  
25 from the boom truck itself and set it on there and the

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1 laborers would bolt it down.

2 Q. How long were you using the boom truck to bring  
3 frack stacks to the wellsites?

4 A. I think I did that about two years.

5 Q. At some point did you begin operating larger cranes  
6 at Oil States?

7 A. Yes, sir. I believe it was the first Part of 2012.

8 Q. And how did it come about that you started  
9 operating these larger cranes?

10 A. I received my certification in the latter part of  
11 2011 and we had moved to a new building right down the  
12 street and when we moved to the new building, I started  
13 using the bigger crane.

14 Q. Let's talk about that certification. What did you  
15 have to do to obtain that certification?

16 A. Well, actually, they had a cram course. They had  
17 an instructor hired from I believe a school in  
18 California that he come to our location and we went to  
19 the local hotel, we had a conference room, and he give  
20 us block instructions for a week.

21 We would go to our parking lot and do OJT  
22 training, on-the-job training with the crane we would be  
23 using.

24 Q. How long were you in that classroom part of that  
25 certification?

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1 A. That was only five days.

2 Q. How long did you spend in the parking lot doing the  
3 on-the-job training?

4 A. I believe it was two or three days. I'm really not  
5 sure now.

6 Q. Was there some sort of test at the end of that?

7 A. Well, he give his little test but after he felt we  
8 was qualified, we had to go to somewhere in Pittsburgh  
9 for the state qualification test.

10 Q. Did you take that Pittsburgh qualification test?

11 A. Yes, I did.

12 Q. Did you pass that test?

13 A. Yes, sir.

14 Q. Once you obtained that certification, what type of  
15 cranes were you operating at Oil States?

16 A. I was operating -- well, at that time we had 30-ton  
17 and 40-ton. That's what I started out with and then  
18 later, we got a 45-ton and 50 tons that I operated.

19 Q. What kind of work were you doing with the 30-ton  
20 cranes?

21 A. I would basically pick up those frack stacks and  
22 set them on the well as part of the job and then if they  
23 were going to frack the well, we would actually work  
24 hand in glove with the wireline people to put the  
25 appropriate equipment on the well so they could shoot

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1 holes in the Marcellus and then they would frack it.

2 Q. You said you were at various times operating 30-,  
3 40-, 45-, 50-ton cranes. Had you ever operated any  
4 crane like that before?

5 A. No, sir, I did not.

6 Q. How did you learn to use that crane?

7 A. Through my individual crane training.

8 Q. Once you finished that class, did you have the  
9 information you needed to operate a crane?

10 A. Yes, sir, I did.

11 Q. Once you received that crane training, how, if at  
12 all, did your job duties at Oil States change?

13 A. Well, basically after I was assigned a work truck,  
14 the cranes were hot shotted out to a wellsite. That was  
15 a designated driver. He would take the crane to the  
16 site and once the crane was there, I would set it up and  
17 we would do what we had to do on the well.

18 Q. We'll talk about that process in a minute.

19 Once you took that certification class and you  
20 started operating these larger cranes, how, if at all,  
21 did your job title at Oil States change?

22 A. It did not change at all.

23 Q. When you were operating these larger cranes, what  
24 was your job title at Oil States?

25 A. Crane operator.

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1 Q. Did your manager refer to you with that job title?

2 A. Yes.

3 Q. While you worked at Oil States, did anyone in  
4 management ever refer to you as a field service  
5 supervisor?

6 A. No.

7 Q. Did anyone refer to you as a grease operator or  
8 pressure control operator?

9 A. No, sir.

10 Q. Before we described for the jury, before I had you  
11 describe how you operate a crane. When you worked at  
12 Oil States, did you work with the three other plaintiffs  
13 in this case?

14 A. Yes, sir, I did.

15 Q. Where would you work with them?

16 A. Various positions throughout Pennsylvania, Ohio,  
17 and West Virginia.

18 Q. When you were working with Wayne and Robert and  
19 Jason, how did the job duties that they were performing  
20 compare to the job duties you were performing?

21 A. Basically it was all the same.

22 Q. When you worked at Oil States, what was your  
23 understanding of their job titles?

24 A. They were crane operators.

25 Q. Did you hear management refer to them as a

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1 particular title?

2 A. Other than crane operators, no.

3 Q. So, when you are operating a crane, where are you  
4 seated?

5 A. Basically, depending on the size crane I used, I  
6 would be so many feet off the well that we was going to  
7 work on and that would be determined by the company man.

8 Q. And we'll get to that in a second.

9 Is there -- do these cranes have like a  
10 control center on them?

11 A. Yes, sir. There is a cab at the very back of the  
12 crane.

13 Q. That's called a cab?

14 A. Cab.

15 Q. And if you could, when you are sitting in the  
16 crane, in the cab of the crane, what type of controls  
17 are you using to operate the crane?

18 A. Normally, it's a joy stick and feet pedal.

19 Q. I'm going to ask you to turn in your binder to the  
20 very back, to 163. Can you briefly identify what is  
21 shown in that document?

22 A. That's a joy stick inside a crane cab.

23 Q. Is that a fair and accurate representation of the  
24 type of joy stick that was in the cranes you operated?

25 A. Yes, sir, it's similar.



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1 Q. Could you just flip quickly to the next tab and  
2 identify what is shown in that photograph?

3 A. That's also a joy stick on the right side of the  
4 cab itself.

5 Q. Is that also a fair and accurate representation of  
6 the joy stick in the crane?

7 A. Yes, sir, it is.

8 MR. WARREN: Your Honor, may I publish those?

9 THE COURT: Yes.

10 Q. Mike, if you would for the ladies and gentlemen of  
11 the jury, just go through and again identify what is  
12 shown in those photographs?

13 A. This stick right here (indicating) on the left side  
14 of the cab, it would control the left and right movement  
15 of the cab itself and also, this particular one would  
16 control the auxiliary line, which is the smaller block  
17 on the crane.

18 The other one, the right-hand side one, that  
19 would be your boom up and down. That's the stick  
20 (indicating) and it would also be controlled by the  
21 rocker switch, the main block, that's the bigger block  
22 of the two.

23 Q. A couple of times you used the term "block." Can  
24 you describe for the jurors what the block is?

25 A. That's basically your whole -- what you are picking

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1 up the equipment with.

2 Q. What about those red buttons at the top, what do  
3 they do?

4 A. Rocker switch. Normally, they would control the up  
5 and down of the block itself.

6 Q. In the background of these photographs it looks  
7 like there is some pedals. Were there pedals in the  
8 cranes you operated?

9 A. Yes, sir. That particular pedal is a swing brake.

10 Q. Describe for the ladies and gentlemen of the jury  
11 what that does?

12 A. Once you depress that pedal, it would lock the  
13 crane from going left to right. If you want to stay in  
14 a certain position, you lock it in.

15 Q. Was there also a pedal on the right side?

16 A. Depending on which side of the crane. Normally,  
17 they had a foot, a throttle plus a throttle on the  
18 dashboard.

19 Q. Describe for the jurors, if you would, what those  
20 pedals do?

21 A. The throttle -- once you pick up a load, you want  
22 full throttle. You can depress the pedal to a high RPM  
23 or on the dashboard you can just pull it out and lock it  
24 into a position where you don't have to fool with it no  
25 more.

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1 Q. You testified earlier that you -- before you  
2 started working at Oil States, you operated skid-steers,  
3 bulldozers, and different types of equipment.

4 Can you describe for the jurors how the  
5 operation of that equipment compared to operating a  
6 crane?

7 A. Basically, a backhoe might be a little bit more  
8 complicated as far as operation but the principle is the  
9 same, up, down, left, and right.

10 Q. What about the skid-steer, how did that compare?

11 A. The skid-steer has basically two laterals which it  
12 turns real tight turns. Pulled to the right, you turn  
13 right. Pull to the left, make a turn left. You got  
14 foot pedals with the bucket up and down.

15 Q. What did those controls in a skid-steer look like  
16 as compared to the controls on a crane?

17 A. They're basically the same depending on the type of  
18 machine. Sometimes they're longer, sometimes they're  
19 smaller but they're basically the same.

20 MR. WARREN: You can take that down.

21 Q. Mike, can you tell the jurors what type of cranes  
22 you were operating?

23 A. I normally operated the 45-ton or 50-ton crane,  
24 National.

25 Q. It was a National Crane?

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1 A. National Crane.

2 Q. Could you turn to Tab 93 of that binder. Briefly  
3 identify what that document is.

4 A. That right there is a 45-ton National Crane.

5 Q. Could you identify what the document is.

6 A. This is a Manitowoc National Crane Production  
7 Guide. It's a guide that's put out by the manufacturer  
8 for that particular crane.

9 Q. Is that the type of crane you operated when you  
10 worked at Oil States?

11 A. Yes, sir, it is.

12 Q. Would you use this document when you worked at Oil  
13 States?

14 A. Yes, sir, I did.

15 MR. WARREN: Your Honor, may I publish that?

16 THE COURT: Yes.

17 Q. Did you also refer to this as a crane manual?

18 A. Yes, sir.

19 Q. Would you have this crane manual with you at the  
20 wellsites?

21 A. Yes, sir. It comes furnished with the crane  
22 itself.

23 Q. How often would you use the crane manual when you  
24 worked at a wellsite?

25 A. We used it on a daily basis.

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1 Q. So, now that the jurors are able to see a  
2 photograph on here, could you just go through and  
3 identify the different parts of these cranes.

4 A. That is your boom, the stick, the boom  
5 (indicating), this is your main wench (indicating).  
6 This don't have the secondary wench on it. This is the  
7 front stabilizer (indicating). These are outriggers  
8 (indicating), there are four of them, two on each side.

9 So, basically what you want to do is unhook  
10 the boom, raise the crane off the ground like  
11 approximately an inch to level it out and inside the  
12 crane you normally have a level or outside the crane you  
13 have a lever, also.

14 Q. And can you point out in the photograph where you  
15 would be seated when you were operating the crane?

16 A. I would be in the crab itself which would be right  
17 there (indicating).

18 MR. WARREN: Milly, could you go through to  
19 Bates Stamp 02450.

20 Q. Mike, can you identify what this diagram is?

21 A. That's a chart that's in the crane manual. It  
22 gives you the working range of your boom. This  
23 particular one has a jib sight on it but it will tell  
24 you what distance your boom is out, what radius that  
25 you'll have, and it will correspond to what another

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1 document which would tell you the weight you can pick  
2 up.

3 Q. Would you use this range chart at the wellsites?

4 A. Yes, sir, I would.

5 Q. In what circumstances?

6 A. Normally, when you are setting up the crane and you  
7 are determining the equipment that has to be picked up,  
8 but normally, it's fairly a tight spot we are working in  
9 but yes, you would refer to that.

10 MR. WARREN: Milly, if you could go to the  
11 next page, please.

12 Q. Mike, can you identify what this is for the jurors?

13 A. That's a load chart. It tells you the distance,  
14 the feet from the well. Well, that's the 25-foot there.  
15 It will tell you if that radius and if your boom like  
16 it's at a certain angle, it tells you the weight you can  
17 pick up. That's all in the computer in the crane  
18 itself. That gives you a general idea if you are so  
19 many feet off the well what you can lift up.

20 Q. Would you use these load charts when you worked at  
21 the wellsites?

22 A. Yes, we would but just to check our data because  
23 normally they become kind of basic to you after awhile.

24 MR. WARREN: Milly, go back to 020442, please.

25 Q. Mike, could you describe -- there is an image in

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1 the bottom right-hand side of that picture. Can you  
2 identify what is shown in that photograph?

3 A. That is the picture of the computer that's inside  
4 the cab. It's on the right-hand side of your cab.

5 Q. Is this similar to the computer that was in the  
6 cranes you operated at Oil States?

7 A. Yes, sir, it is.

8 Q. Let's see if we can look at a larger photograph.  
9 Can you go to Exhibit 161 in your binder, Mike. Can you  
10 identify what is shown in the document marked Exhibit  
11 61?

12 A. It has a computer screen itself plus some buttons  
13 underneath.

14 Q. Let me just interrupt you quickly before you go  
15 into too much detail. Is that a picture of a crane  
16 computer?

17 A. Yes, sir.

18 Q. Is that a fair and accurate representation of the  
19 computers that were in your cranes?

20 A. Yes, sir, it is.

21 THE COURT: You may publish.

22 Q. Point out and show the jurors what that is a  
23 photograph of.

24 A. This is a computer screen itself (indicating).  
25 Once you set up the crane, you would punch in these

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1 buttons and it would bring up the type of crane you're  
2 using.

3 Basically, it tells you if you got a two,  
4 three, four part line, if your outriggers are all the  
5 way extended, and all you got to do is push the button  
6 to identify the crane that is being used.

7 Q. Who programs that information -- so, you said you  
8 plug information into the crane?

9 A. Yes, sir.

10 Q. What are you plugging in?

11 A. The data that specifies the crane you're actually  
12 using. You're actually scrolling through to identify  
13 the crane that is being used.

14 Q. So, you are just finding the make and model?

15 A. That's basically it.

16 Q. Okay. Once you program the make and model into the  
17 computer, what happens?

18 A. The computer will tell you at a certain distance,  
19 at 100 feet, you could pick up 20,000 pounds and what  
20 distance you can do that at.

21 Q. The computer, those calculations it's making, do  
22 you program the data into the computer so that it can  
23 make those calculations?

24 A. No, sir. That's programmed from the manufacturer.  
25 So, everything for that particular crane is in the



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1 computer. All you got to do is read and understand the  
2 buttons.

3 Q. Were you ever involved in determining what the  
4 capabilities of these cranes were?

5 A. No, sir. That's all the manufacturer.

6 Q. If the crane is being operated beyond its capacity,  
7 what happens?

8 A. Well, basically it will just shut off like this  
9 three wrap right there, if that red light comes on, that  
10 means you got too much rope out and it tells you that  
11 you are on your third wrap and you can't go anymore. It  
12 will sound an alarm.

13 If you go to pick up the weight in excess of  
14 the chart itself, it will automatically cut off.

15 Q. And, again, are you involved in programming those  
16 limitations into the computer?

17 A. No, sir. That's all done by the manufacturer.

18 MR. WARREN: Milly, you can take that down,  
19 please.

20 Q. Mike, can I ask you to turn to the document marked  
21 Tab 94 of your binder.

22 A. I have a 93, not 94.

23 Q. Don't worry about it. Now that we had you explain  
24 the inside of the crane cab, I would like to talk about  
25 what you are actually doing when you get to the

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1 wellsites.

2           So, when you get to a wellsite at the  
3 beginning of the job, what is the first thing you have  
4 to do.

5     A.    I would basically pull into the wellsite, the  
6 company man would designate what well was going to be  
7 worked on, be it multiple wells or a single well. Then  
8 I would spot the crane on that particular well.

9     Q.    Let's go through that in pieces. First, you used  
10 the term "company man." Can you tell the jurors who the  
11 company man is?

12    A.    The company man is a designated representative of  
13 the oil services that is going to drill the well itself.  
14 He's in charge and responsible for the overall  
15 operations of the wellsite.

16    Q.    The company man, would he be an employee of Oil  
17 States?

18    A.    No, sir. He is a separate contractor.

19    Q.    What was his position at the wellsite as compared  
20 to your position?

21    A.    He was in charge of the overall supervision and my  
22 operation of the crane would be to set up the crane and  
23 operate it within the safety boundaries of the  
24 manufacturer's book.

25    Q.    Okay. So, you said, I believe, when you showed up

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1 at the wellsite, you would get together with the company  
2 man?

3 A. Yes, sir. Normally, the company man and the  
4 wireline supervisor engineer.

5 Q. What goes on in that conversation?

6 A. We basically determined where the equipment is  
7 going to set, how the operations are going to be  
8 conducted, and certain radiuses of the crane and the  
9 wireline.

10 Q. What information would the company man give you?

11 A. He would just basically tell us what well we was  
12 going to work on.

13 Q. Once you got that information from the company man,  
14 what would you do?

15 A. Basically, I would spot the crane and depending on  
16 what type of crane I would use, that would determine how  
17 far off the well I would be, the different radiuses to  
18 the wireline for picking the equipment up and setting it  
19 on the well itself.

20 Q. And that process, how would you figure out what the  
21 proper distance was?

22 A. Basically find the type of crane you are using.  
23 It's normally the same but you have the manufacturer's  
24 book to tell you the different feet from the well and  
25 the boom angle that you are allowed to use.

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1 Q. All right. Then once you got the crane parked in  
2 the right spot, what do you do next?

3 A. We basically start unloading the greasers equipment  
4 and assemble.

5 Q. Would you have to do anything to get the crane  
6 ready to operate?

7 A. As far as punching in all my data, no. That's  
8 basically it.

9 Q. Okay. What about those outriggers, at what point  
10 do they get set up?

11 A. When we are spotting the crane, that's basically  
12 when I do all that, I would level the crane off, get off  
13 my distance. Once I calculated all that, that's when we  
14 start unloading.

15 Q. How long does it take you to get the crane spotted?

16 A. 10, 15 minutes.

17 Q. Okay. Once the crane is spotted, what is the next  
18 thing that happens?

19 A. We would then proceed to unload the pressure  
20 control equipment, the various other equipment used to  
21 work on the well.

22 Q. Where is that equipment located when you arrive at  
23 the wellsite?

24 A. It's normally pulled out by a separate trailer. It  
25 has a gooseneck trailer with a cover on it and it's

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1 strapped down.

2 Q. Between 2012 and 2015, were you responsible for  
3 bringing these grease trailers to the wellsite?

4 A. No, sir. They normally stand out by the driver,  
5 the designated driver normally referred to as hotshot  
6 driver.

7 Q. Who is the employer of that hotshot driver?

8 A. Oil States.

9 Q. If you could turn in your binder to the document  
10 marked as Exhibit 51, please.

11 Before you get into too much detail, can you  
12 identify what is shown in that photograph?

13 A. This is a picture of the equipment sent out to a  
14 wellsite that we are going to use to frack a well.

15 MR. WARREN: Your Honor, may I publish?

16 THE COURT: Yes.

17 Q. So, in this photograph, what is all this equipment  
18 sitting on?

19 A. This is a gooseneck trailer, covered trailer which  
20 the cover is pulled back all the way to the back.

21 Q. Is that the type of trailers Oil States used to  
22 bring this equipment out?

23 A. Yes, sir, it is.

24 Q. If you could go through for the ladies and  
25 gentlemen of the jury and before you go through each

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1 piece of equipment, generally speaking, what type of  
2 equipment is this?

3 A. Pressure control equipment.

4 Q. And if you could go through and just identify the  
5 different pieces of machinery that are sitting on that  
6 trailer.

7 A. This is the machine itself, it has a variety of  
8 hoses rolled up on it (indicating). It's used to  
9 actually control the pressure of the equipment itself.  
10 Sometimes we will let it sit on the trailer or sit it  
11 down on the ground beside it.

12 This is a grease tote (indicating). It's the  
13 grease that's used to -- for the pressure control, and  
14 these are lube incarcerationators, these long tubes  
15 (indicating). There is -- depending on how many guns  
16 are being used which determines the length of the tube  
17 itself.

18 This is BOP (indicating) that's going to be  
19 used to sit on top of the well.

20 Here is a grease trap (indicating) and there  
21 is a grease head (indicating). Those are items that are  
22 set on top of the well itself. The grease head itself  
23 actually has small tubes in it which controls the grease  
24 in the tube that actually controls the pressure of the  
25 well.

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1           This right here (indicating) is torque  
2 wrenches that are used if need be to torque the valves  
3 down to the well.

4 Q.   You used the term "BOP." What does that stand for?

5 A.   I'm not sure what the technical term is. It's the  
6 valve that is used to control the guns going down into  
7 the well and it has certain gates inside where the  
8 greaser controls, opens up and closes for the guns to go  
9 down.

10 Q.   Who is operating this equipment at the wellsite?

11 A.   It is the greaser at the control of the unit.

12 Q.   Is the greaser the same person as the grease  
13 operator, pressure control operator?

14 A.   Yes, grease operator.

15 Q.   While you worked at Oil States, did you ever work  
16 as a greaser?

17 A.   No, sir, I did not.

18 Q.   Were you ever responsible for operating this  
19 equipment?

20 A.   No, sir. I might have watched the equipment while  
21 he left to go to the bathroom or something like that.  
22 All I do is hit the emergency shutoff. That's about it.

23 Q.   Were you ever trained on how to use this equipment?

24 A.   No, sir, I was not.

25 Q.   Okay. So once this equipment arrives at the

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1 wellsite and it's sitting on this trailer, what do you  
2 do with it?

3 A. Well, after it's unstrapped, we would pull it apart  
4 and set it on the ground and the greaser would assemble  
5 the lubricators.

6 Q. How do you get this equipment off the trailer?

7 A. I use my crane to pick up all the equipment.

8 Q. Just describe how that process works, please.

9 A. Well, basically, he'll have stands down on the side  
10 that were used to lay down or pick up, so I would swing  
11 over with the crane and I would bring in these  
12 lubricators and lay them down and he would assemble them  
13 together; and all the other various equipment he would  
14 put on top of the BOP and when we're finished, we would  
15 have the lubricators on top of the BOP.

16 Q. How did you know what equipment to pick up?

17 A. That was told to me by the grease operator. He  
18 made the decision what to pick up and when.

19 Q. How did you know how to put that equipment  
20 together?

21 A. Well, actually, he would put it together. I have  
22 seen it done so many times, it would be automatic.

23 Q. This may be obvious, but when you are operating the  
24 crane, where are you seated?

25 A. In the cab crane seat.



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1 Q. And what are you using to operate the crane?

2 A. I'm using the joy sticks, my feet pedal, and the  
3 boom.

4 Q. So, you go through this process and you put all  
5 this equipment together. Is there a name for the  
6 process of assembling that equipment, a term you use?

7 A. Rig up. We normally say rigging up.

8 Q. Once you got that equipment rigged up, what do you  
9 do next?

10 A. Basically, we coordinate with the company man and  
11 the wireline truck what wells -- when we're going down  
12 the hole, the guns being used, et cetera, to shoot the  
13 well.

14 Q. All right. Let's go through and you used a couple  
15 terms again, I want to make sure the jurors know what  
16 we're talking about.

17 You used the word "gun." What does that mean?

18 A. That's the explosive that the grease operator -- or  
19 I mean the wireline operator puts together. There's  
20 about four or five of them. They are the explosives  
21 that go down in the well. It's on the wire that would  
22 go up into the tubes and then when I pick up, you would  
23 put the guns in the tube and I would pick it up, set  
24 over the well and the grease operator would open up and  
25 go down a hole.

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1 Q. You just used the term "down the hole" the second  
2 or third time. What does that mean?

3 A. Basically when everything is a go, the well would  
4 be open and the guns would just drop down the hole and  
5 the grease operator would control the actual pressure so  
6 nothing would jump out the top basically.

7 Q. When you use the term "hole," is the term "hole"  
8 the well?

9 A. The hole is the well, four-inch hole.

10 Q. A moment ago you described hand signals. Can you  
11 go to Tab 58, please. Can you just briefly describe  
12 what is shown in that photograph.

13 A. Basically, you got the crane operator bringing the  
14 hook down in which the gentleman on the left is giving  
15 the hand signals on bringing the hoist down.

16 Q. Is this a fair and accurate representation of a  
17 typical scene at the wellsite you were working at?

18 A. Yes, sir, it is.

19 THE COURT: You may publish.

20 Q. Now that the jurors are able to view this picture,  
21 can you describe what is shown in here.

22 A. This is the crane operator up here (indicating).  
23 He is watching this guy and this guy is actually giving  
24 a hand signal to drop the hoist.

25 Q. When you are working in a wellsite, what work are

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1 you doing?

2 A. I'm the crane operator sitting in the seat of the  
3 crane.

4 Q. While you worked at Oil States, were you ever doing  
5 the work that these other two gentlemen are doing in  
6 this picture?

7 A. No.

8 Q. What is that long steel pipe that is shown at the  
9 bottom of the photograph?

10 A. That's the lubricator. It's already been assembled  
11 and it looks like he is going to pick it up.

12 Q. What is this big thing up here (indicating)?

13 A. The hoist itself -- the hook. That's what is going  
14 to pick up the lubricator.

15 Q. What is this hand signal that that gentleman is  
16 giving?

17 A. He is giving a down signal which is down the crane,  
18 guys to go down.

19 Q. Are those industry standard signals?

20 A. Yes, sir. They are basic signals which actually  
21 has to be posted. You can see it is posted in the cab  
22 itself on the window.

23 Q. All right. What is this big thing back here, that  
24 big stack (indicating)?

25 A. That's the well that is going to be worked on.

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1 Q. That's the actual gas well?

2 A. Yes. That's the well itself and it has all these  
3 pipes here (indicating). That's where the water and  
4 stand will basically be going down.

5 Q. So, once you've gone through and you got all this  
6 equipment rigged up and you're ready to start working,  
7 you said you would get together with the company man?

8 A. Normally, by this time it would be the  
9 wireline -- the company man probably already  
10 has -- figured out we're working on that well and it's  
11 just a matter of timing when we're going to go down the  
12 hole.

13 Q. My mistake. You get together with the wireline  
14 crew, and what are you discussing in that conversation?

15 A. Basically when he is ready to have everything  
16 assembled, the gun is already assembled and when the  
17 frack people got the pressure off the well, he will tell  
18 the wireline people and he will tell us he is ready to  
19 go down the hole.

20 Q. During that conversation, what are you doing?

21 A. I'm in a crane waiting for the decisions to be made  
22 to pick the lubricator up and get it in position.

23 Q. While you worked at Oil States, were you ever  
24 responsible for making the decision of when the wireline  
25 operations would start?

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1 A. No, sir. I would just be a part of the equation  
2 and wait for instructions.

3 Q. So, once you get instructions to start operations,  
4 what do you do?

5 A. Going back to that particular picture, we're ready  
6 to go down the hole, I would hook onto a sling that is  
7 on that lubricator and I would pick it up. The guns  
8 would be pulled up into the lubricator itself and get it  
9 ready to set on the well.

10 Q. How do you know how to pick up the lubricator? How  
11 do you know when it's time to do that?

12 A. Well, the wireline engineer would give the go  
13 ahead.

14 Q. And describe how that equipment is picked up.

15 A. I would be hooked onto a sling and nine times out  
16 of ten, it would be the greaser and he would tell me to  
17 pick up, and I would hoist the lubricator up in the air,  
18 and then when the wireline is actually ready to go up in  
19 the lubricator, they would give me the signal and show  
20 it's going up in there and I would actually just watch  
21 it go up in there.

22 Q. What is it that the wireline crew is putting up  
23 into the lubricator?

24 A. That's the gun, the explosives.

25 Q. Is Oil States involved in those explosives in any

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1 way?

2 A. No. That's a totally different company.

3 Q. Once those explosives are pulled up into the  
4 lubricator, what happens next?

5 A. The greaser, he would be at the top of the well and  
6 after the frack people tell him the pressure is off the  
7 well, he would check the needle valve to verify the  
8 pressure is off.

9 He would take a lifting cap off the well  
10 itself and then he would indicate to me to swing over  
11 and set all the equipment on the well itself.

12 Q. And, again, where are you seated during this?

13 A. I'm still in the crane seat of the crane.

14 Q. And you said the greaser is up in a basket. Can  
15 you describe for the jurors what you mean by that.

16 A. It's a man basket that he goes up and down, swings  
17 over left to right, and he will go over and actually  
18 touch the well where he is able to unscrew the lifting  
19 cap that is on top of that well.

20 Q. Mike, can you please turn to Tab 61 in your binder.  
21 Again, before we show this to the ladies and gentlemen  
22 of the jury, can you just identify what is shown in that  
23 photograph?

24 A. Well, this is the -- you got the crane operator,  
25 you got the BOP and the guns are in the BOP because you

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1 can see the guns dangling out and the grease operator  
2 has already taken the lifting cap off the well and he is  
3 getting ready to go on the well.

4 Q. Okay. Is this photograph a fair and accurate  
5 representation of the scenes of the wellsites you were  
6 working on?

7 A. Yes, it is.

8 MR. WARREN: Your Honor --

9 THE COURT: Yes, please publish.

10 Q. Mike, who is the gentleman who is shown in the  
11 center of that photograph?

12 A. This is the grease operator directing the BOP to  
13 set on the well.

14 Q. And is this thing, is that the man lift you were  
15 talking about?

16 A. That is the man lift that he operates to go up and  
17 down on the well.

18 Q. And what is this big orange thing in the center of  
19 the photograph (indicating)?

20 A. That is the stack itself, the well that is going to  
21 be fracked.

22 Q. All right. What is the thing that is dangling in  
23 the air at the top of the photograph?

24 A. This here is the BOP and that dangling outside,  
25 that is explosives (indicating).

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1 Q. So, what is going on in this photograph?

2 A. Basically the greaser has got the well uncapped and  
3 he is telling the crane operator to swing on the well  
4 and they are going to set it on the well itself.

5 Q. While this is going on, what are you doing?

6 A. I'm directing the crane, putting that BOP on the  
7 well.

8 Q. Where are you seated?

9 A. I'm sitting at the crane operator seat.

10 Q. This equipment at the top, is that attached to your  
11 crane?

12 A. Yes. I have that picked up in the air.

13 Q. How do you know what to do with that equipment?

14 A. Well, actually, the grease operator is directing me  
15 by hand signals.

16 Q. He is telling you where to swing the equipment?

17 A. He is telling me what to do.

18 Q. Let's go to Tab 59 of your binder, Mike. Before  
19 you go into too much detail, could you briefly identify  
20 what is shown in that photograph?

21 A. Okay. The grease operator is fastening -- well,  
22 it's already been fastened. It looks the BOP is already  
23 sitting on the well. It looks like he is fastening the  
24 lubricator.

25 Q. Is this a fair and accurate representation of the



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1 scene you have worked at?

2 A. Yes, it is.

3 THE COURT: You may publish.

4 Q. So, again, if you could go through and identify the  
5 different equipment that is shown in that photograph.

6 A. Okay. Again, this is the man lift that he is over  
7 there on the well itself. This is the BOP (indicating)  
8 and it looks to me like he is fastening the lubricator  
9 to the BOP.

10 Q. Which of the things in that photograph is the  
11 lubricator?

12 A. This long pipe is the lubricator (indicating).

13 Q. What is all the other pipes on the ground, what are  
14 those?

15 A. Basically, iron all hooked together to the trucks,  
16 the pump trucks. They are going to pump water, acid,  
17 sand down the hole.

18 Q. Those pipes, is that part of the fracking process?

19 A. That's the fracking process but that won't be done  
20 until after they shoot the guns.

21 Q. Okay. Were you involved in setting up those pipes  
22 or anything?

23 A. No, sir. I just set the equipment on the well.

24 Q. Once the equipment is -- how did you say that the  
25 grease operator is attaching the equipment to the well?

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1 A. It has a collar which he just fastens and he has a  
2 chain wrench that he fastens on.

3 Q. So, he is doing that by hand?

4 A. Yes.

5 Q. If you could, what are these big white canisters in  
6 the background (indicating)?

7 A. They contain sand which actually will go to a  
8 conveyor belt which will go to a different piece  
9 of -- another piece of machine which will actually be  
10 fed down the well.

11 Q. Once the grease operator has this equipment screwed  
12 on to the well, do you unhook it from the crane?

13 A. No. Actually, I will cut the power off at this  
14 time and my position in the crane is more or less  
15 finishing until they are done with the firing of the  
16 explosive.

17 Q. And who is doing the firing of the explosive?

18 A. It would be the wireline engineer.

19 Q. Were you involved in that process of firing off the  
20 explosive?

21 A. No, sir.

22 Q. Were you required to stay in the cab of the crane  
23 during that process?

24 A. No, sir, I was not.

25 Q. So, what do you do?

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1 A. I basically can get down at that time and I would  
2 normally help the greaser.

3 Q. While the wireline crew is firing the guns, what is  
4 the greaser doing?

5 A. He is controlling the pressure of the well at this  
6 time.

7 Q. And how is he doing that?

8 A. He is doing it by that unit I showed you, he is  
9 operating that equipment to control the pressure.

10 Q. Again, were you responsible for operating that  
11 unit?

12 A. No, sir.

13 Q. Were you trained on how to operate that unit?

14 A. No, sir, I was not.

15 Q. Once the wireline crew has fired off its explosive,  
16 what happens?

17 A. Once they're complete firing, they'll come back out  
18 of the hole which takes a fairly long time to do.

19 Q. And once they've come back out of the hole, what  
20 happens at the wellsite?

21 A. Once he comes out of the hole, there is a toll trap  
22 on it that has a little gate on it and the greaser is  
23 telling me once the gun is past that gate and it will  
24 turn and that tells me the guns are up in the tubes and  
25 at this point, we are ready to come off the well.

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1 Q. Once you are ready to come off the well, what  
2 happens?

3 A. He would uncollar it, loosen it up, and direct me  
4 off to the side of the well where we designated as a  
5 set-down point or what have you.

6 First of all, I just swing over to that point  
7 and go up in the air where they drop the guns down and  
8 they put new guns on.

9 Q. And during that whole process are you operating the  
10 crane?

11 A. I'm operating the crane.

12 Q. How do you know when it's time to pick up the  
13 equipment and lift it off the well?

14 A. It's all directed to me by the greaser.

15 Q. Are you ever responsible for making that decision?

16 A. No, sir. I'm just waiting for instructions.

17 Q. Once you pick up the equipment off the well, you  
18 said you would set it down?

19 A. We would go off to the side. Normally, we would go  
20 back up in the air so the guns would come back out where  
21 new guns would be put on.

22 Q. That process of putting in new guns, how long does  
23 that take?

24 A. Depends on the wireline guy. I guess a good 30, 45  
25 minutes or so.

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1 Q. Once the wireline crew has replaced its guns, what  
2 happens?

3 A. Actually, we set down on the side. The guns are  
4 laid down. They'll move me off to a section to where I  
5 actually set the BOP down, probably on a stand, and we  
6 wait for them to start fracking the well.

7 Q. Then the fracking crew, what are they doing  
8 generally speaking when they frack the well?

9 A. Well, once they do that, they fire all their  
10 equipment up and they start fracking, they pump  
11 everything down in the hole that is supposed to go down  
12 there.

13 Q. Are the crane operators doing anything while the  
14 fracking crew is doing its work?

15 A. Right now we just get out of the way when they're  
16 doing that.

17 Q. So, all this process that you just described, is  
18 that a typical day at a wellsite?

19 A. Yes, that's basically everything we do.

20 Q. How many times would you go through this process of  
21 stabbing on and stabbing off on a typical day?

22 A. Well, it depends on the stages of the well but  
23 four, five, six, one after another, providing there is  
24 no mistakes.

25 Q. So, when you are at the wellsite, what is your main

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1 responsibility?

2 A. Operate the crane.

3 Q. Mike, are you familiar with the term "stop work  
4 authority?"

5 A. Yes, sir.

6 Q. What does that term mean to you?

7 A. That's authority that everyone on the wellsite is  
8 designated to stop operations any time they see  
9 something unsafe basically.

10 Q. Who at the wellsite has stop work authority?

11 A. Everyone on the wellsite.

12 Q. Are you familiar with the Occupational Safety and  
13 Health Administration or OSHA?

14 A. Yes, sir.

15 Q. What is your understanding of what that entity is?

16 A. That's basically a set of rules set up to govern  
17 operations of certain things.

18 Q. As a crane operator at Oil States, were you  
19 required to comply with those OSHA rules?

20 A. Yes, sir. OSHA does have a rule about everyone  
21 having stop authority.

22 Q. Okay. Could you turn to Tab 96 in your binder,  
23 please. Before we get into the details, what is that  
24 document that you are looking at?

25 A. It is a Federal Register Rules and

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1 Regulations -- it's an OSHA document.

2 Q. These rules and regulations, were you required to  
3 comply with them when you worked at Oil States?

4 A. Yes, sir.

5 Q. If you could turn to Page -- at the bottom right  
6 there are numbers. Do you see those numbers, five-digit  
7 numbers?

8 A. Yes, sir.

9 Q. Could you turn to 03446. On the left-hand side of  
10 that page there is a paragraph that says "authority to  
11 stop operations," do you see that?

12 A. Yes, sir.

13 Q. Is this a rule that you were required to comply  
14 with as a crane operator at Oil States?

15 A. Yes, sir, it is.

16 MR. WARREN: Your Honor, may I publish that?

17 THE COURT: Yes, you may publish it as a  
18 regulation of the federal government. This witness  
19 cannot opine what it means but he can certainly identify  
20 it.

21 MR. WARREN: Thank you. 03446, if you could  
22 zoom in on the left side, please, Milly.

23 Q. Mike, I'm going to ask you -- on the left side you  
24 see it says Section 1926.1418, Authority to Stop  
25 Regulation, do you see that?

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1 A. Yes.

2 Q. Can you read that paragraph out loud, please.

3 A. Whenever there is a concern as to safety, the  
4 operator must have the authority to stop and refuse to  
5 handle loads until a qualified person has determined  
6 that safety has been assured.

7 Q. Was this your understanding of the stop work  
8 authority when you worked at Oil States?

9 A. Yes, sir, it was.

10 Q. In this paragraph you just read, what was your  
11 understanding of who the operator is?

12 A. Well, the operator being myself, the crane  
13 operator, or anyone else responsible for operations of  
14 certain equipment.

15 Q. And later in that same sentence it says until a  
16 qualified person determines -- has determined that  
17 safety has been assured.

18 What was your understanding of who a qualified  
19 person is?

20 A. A qualified person in my case would be a qualified  
21 crane operator. I would make a decision if something is  
22 unsafe. A person without a certification couldn't do  
23 that but the company man has authority to govern the  
24 safety potential.

25 Q. So, when are you deciding what you think is unsafe,



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1 what is that based on?

2 A. My training.

3 Q. And what type of training was that?

4 A. That was my crane training.

5 Q. During that crane training, what did they tell you?

6 A. If anything is unsafe, to stop operations.

7 Q. Did they tell you what types of things to look for?

8 A. Basically, you would know what to look for. Given  
9 my particular job and what I did, there was certain  
10 things that would look a certain way and you would know  
11 if something was wrong.

12 Q. So, what types of things were you looking for?

13 A. Well, for instance, if a bolt wasn't tightened all  
14 the way, if it wasn't secured safely to the well itself,  
15 the sling was broken or something like that.

16 Q. How did you know that those are the types of things  
17 you should be looking for?

18 A. There is basically things you work with every day  
19 and you know that they cover the safety of the  
20 operation.

21 Q. Were you told things about the weather that you  
22 should be looking for?

23 A. Yes, sir. We do have in the manufacturer's book,  
24 they got a brief, I guess, a summary of the type of  
25 weather you look for. They will tell you if the wind is

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1 blowing at a light speed, the leaves on the trees will  
2 show a different color and just certain different things  
3 to look for to kind of give you an idea of the wind  
4 speed. However, we had wind related things to go on top  
5 of the crane.

6 Q. When you're looking around to see whether things  
7 are unsafe, is there common sense involved in that?

8 A. Yes, basically.

9 Q. And are you looking around for things that people  
10 have told you to look for?

11 A. Yes. In your training, you have certain things you  
12 want to look for.

13 Q. So, when you are looking around for things that  
14 might be unsafe, are you relying on anything other than  
15 the training and what you have been told to look for?

16 A. No, sir. It's specifically your training that you  
17 are relying on.

18 MR. WARREN: Let's take that down, please.

19 Q. Mike, let's change topics and talk about the  
20 compensation you received at Oil States.

21 Can you tell the jurors what type of pay you  
22 received from Oil States?

23 A. I received a biweekly salary -- monthly salary  
24 every other week.

25 Q. You got paid every two weeks?

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1 A. Every two weeks, yes.

2 Q. The amount of salary, was that a fixed amount?

3 A. Yes, sir, it was.

4 Q. Did that salary fluctuate from month to month?

5 A. No. It remained the same.

6 Q. Could you please turn back to the very front of the  
7 binder and go to Tab No. 3. Could you identify what  
8 that document is.

9 A. It's a payroll register of myself.

10 Q. Have you reviewed this document before today?

11 A. Yes.

12 Q. Do you believe this document accurately reflects  
13 the compensation you received at Oil States?

14 A. Yes, I do.

15 MR. WARREN: Your Honor, may I publish that?

16 THE COURT: Yes.

17 Q. Do you see in the center of this document there are  
18 various pay codes there?

19 A. Yes.

20 Q. What is your understanding of what the pay code  
21 "REG" stands for?

22 A. That's a designator for regular salary payment.

23 Q. Was it your understanding that those are the salary  
24 payments you received?

25 A. Yes, sir.

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1 Q. Have you used this payroll report to go through and  
2 calculate the amount of salary you received from Oil  
3 States during different time periods?

4 A. Yes, sir, we did.

5 Q. Have you gone through and calculated the amount of  
6 salary you received from Oil States that you earned from  
7 Oil States between August 25<sup>th</sup> of 2012 and August 24<sup>th</sup> of  
8 2013?

9 A. Yes, I did.

10 Q. Could you tell the jurors what number you came up  
11 with when you did that calculation?

12 A. I don't have those figures written down right now.

13 Q. Is there something you might look at that would  
14 help you remember what that number is?

15 A. That would be the spreadsheet of our pay.

16 Q. Those are the calculations you did?

17 A. Yes.

18 Q. Let me hand you the document to see if this  
19 refreshes your recollection.

20 MR. DAVIS: Your Honor, may we approach.

21 THE COURT: I want to see it first, too. Hold  
22 on and let's see what this is. Let me hear a question  
23 first. This is not a spreadsheet.

24 MR. WARREN: Your Honor, I believe Mr. Burchik  
25 has testified he has just gone through and added up

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1 different numbers in this report and he is going to say  
2 what his calculations were.

3 I was just going to hand this to him to  
4 refresh his recollection of the math he did when he  
5 added these numbers up.

6 THE COURT: I think the concern was the  
7 spreadsheet.

8 MR. DAVIS: Yes.

9 THE COURT: We don't have a spreadsheet. I  
10 understand your objection. Let's wait until we get  
11 there, if we do.

12 BY MR. WARREN:

13 Q. Mike, are those the notes you took when you were  
14 adding up the salary payments you received?

15 A. Yes.

16 Q. Does that document refresh your recollection as to  
17 the calculations you did of the amount of salary you  
18 earned from Oil States from August 25, 2012 to August  
19 24, 2013?

20 A. Yes, it is.

21 Q. Can you tell the jurors what that number is?

22 MR. DAVIS: Your Honor, may we see the  
23 document first.

24 THE COURT: In other words, this is his  
25 calculation of all the numbers here?

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1 MR. WARREN: He just added up the numbers.

2 THE COURT: This is a document that he had in  
3 his files?

4 MR. WARREN: No. This is a document we  
5 received from Oil States that he has reviewed.

6 THE COURT: If looking at it refreshes you,  
7 sir, then you may give us that number.

8 A. \$37,239.

9 THE COURT: I'm sorry?

10 THE WITNESS: \$37,239.

11 Q. Mike, have you also gone through that same payroll  
12 report that you received from Oil States, have you gone  
13 through and added up the amount of salary compensation  
14 you earned between August 25, 2013 and when you left the  
15 company in 2015?

16 A. Yes, sir. That was \$47,500.

17 Q. That's the amount of salary compensation you earned  
18 in that pay range?

19 A. Yes, sir.

20 MR. WARREN: Thank you very much. I'll take  
21 that back from you.

22 Q. In addition to the salary you received, did you  
23 receive another form of compensation?

24 A. We received bonuses from the jobs we performed.

25 Q. Could you explain what a job bonus is to the jury.

**Michael Burchik - Direct**

1 A. Basically, for every well we worked on, we got a  
2 bonus for that particular well. If it was multiple  
3 wells, then we got multiple bonuses but normally, they  
4 would have a ticket number and for the number of days we  
5 worked, we would be compensated for it.

6 Q. So, how many bonuses did you receive for each shift  
7 that you worked?

8 A. I wrote that down on another document. I don't  
9 have that.

10 Q. Before we get to the total number, I want to make  
11 sure the ladies and gentlemen of the jury understand how  
12 the job bonus worked.

13 What would you have to do in order to earn a  
14 job bonus?

15 A. Basically work on a job, frack the well. Once the  
16 job was complete, we was eligible for a bonus for that  
17 well.

18 Q. Did you receive all the job bonuses that you  
19 thought you earned at Oil States?

20 A. I believe so.

21 Q. When you worked at Oil States, what was the amount  
22 of the job bonus?

23 A. \$450 per job.

24 Q. For what size crane was that?

25 A. Any size crane besides the 100-ton.

**Michael Burchik - Direct**

1 Q. Would you operate the 100-ton when you worked at  
2 Oil States?

3 A. No, I did not operate that crane.

4 Q. The amount of bonus, was that \$450 for every job?

5 A. Yes, sir.

6 Q. Were any of your job bonuses withheld for any  
7 reason?

8 A. No, sir, they weren't.

9 Q. If you would do a good job at Oil States, would you  
10 ever receive a good job bonus?

11 A. No. They always remained the same.

12 Q. If you did a poor job, would you receive a job  
13 bonus?

14 A. Still remained the same.

15 Q. As a crane operator at Oil States, were you ever  
16 paid an hourly wage?

17 A. No, sir, I was not.

18 Q. Were you ever paid any overtime pay while you  
19 worked at Oil States?

20 A. No, sir, I was not.

21 Q. If you worked 40 hours in a workweek and let's  
22 start with the salary, did the amount of the salary you  
23 received in that two-week pay period, did it go up if  
24 you worked more than 40 hours in a workweek?

25 A. No. It remained the same.



**Michael Burchik - Direct**

1 Q. Did the number of hours that you worked in a week  
2 affect the amount of your salary in any way at all?

3 A. No, it did not.

4 Q. These job bonuses, would the amount of job bonus go  
5 up if you worked more than 40 hours in a workweek?

6 A. More than 40 hours, no.

7 Q. So, let me ask it this way. If you worked three  
8 jobs in a row and the fourth job required -- put you  
9 over 40 hours for a week, would the amount of the bonus  
10 in that job increase?

11 A. No. That would stay the same.

12 Q. So, was the amount of the job bonus, was it tied to  
13 working 40 hours in a week?

14 A. No.

15 Q. Could you turn to the back of the binder to Tab  
16 174. I think it's at the very end.

17 Do you see that document?

18 A. Yes, sir, I do.

19 Q. Is that document you are looking at, is that your  
20 IRS Form W2 for 2012?

21 A. Yes, sir, it is.

22 MR. WARREN: Your Honor, may I publish?

23 THE COURT: Yes.

24 Q. Mike, if you could look at the top of this document  
25 and Box 1, does that Box 1 accurately reflect to the

**Michael Burchik - Direct**

1 best of your recollection and understanding --

2 A. Yes, sir, I believe it does.

3 Q. You believe it accurately reflects the compensation  
4 you received from Oil States in 2012?

5 A. Yes, sir.

6 Q. Let me have you flip to the next exhibit, which is  
7 175. Does that appear to be your IRS Form W2 for 2013?

8 A. Yes, sir, I believe that's it.

9 MR. WARREN: Your Honor, may I publish?

10 THE COURT: Yes.

11 Q. In Box 1, do you see that number there?

12 A. Yes, sir.

13 Q. Do you believe that accurately reflects the amount  
14 of compensation you earned from Oil States in 2013?

15 A. I believe so.

16 Q. Let me have you flip to the next exhibit, please.

17 MR. WARREN: May I publish?

18 THE COURT: Yes.

19 Q. Does that appear to be your IRS Form W2 for the  
20 year 2014?

21 A. Yes, sir, I believe so.

22 MR. WARREN: May I publish, Your Honor?

23 THE COURT: Yes.

24 Q. Once again, Mike, Box 1 on top of that page, do you  
25 see that number?

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1 A. Yes.

2 Q. What number is shown in that box?

3 A. \$97,148.02.

4 Q. Do you believe that box accurately reflects the  
5 compensation you earned from Oil States in 2014?

6 A. Yes.

7 Q. One last flip to Tab 177, please. Does this appear  
8 to be your IRS Form W2 for 2015?

9 A. I believe it is.

10 MR. WARREN: Your Honor, may I publish?

11 THE COURT: Yes.

12 Q. Once, again, in Box 1, could you read the number  
13 that is shown in that box.

14 A. \$60,449.59.

15 Q. Do you believe that number in Box 1 of the document  
16 marked Exhibit 177, do you believe that accurately  
17 reflects the amount of compensation you earned from Oil  
18 States in 2015 up until the time you stopped working for  
19 the company?

20 A. Yes, I believe so.

21 Q. Mike, I want to discuss the schedule when you  
22 worked at the wellsites.

23 When you are working at these gas wells, how  
24 many hours per day is something going on on the  
25 wellsite?

**Michael Burchik - Direct**

1 A. 24 hours a day.

2 Q. How many days a week?

3 A. Seven days a week.

4 Q. On a typical crew when you are working on a  
5 wellsite, how many Oil States' employees are on each  
6 crew?

7 A. Two people.

8 Q. Who are those employees?

9 A. Myself, crane operator, and greaser.

10 Q. While you worked at Oil States, did you ever work  
11 any jobs where there was more than one crane operator  
12 assigned to any shift?

13 A. No, not typically but I did have a guy OJT with me  
14 one or two days.

15 Q. OJT is?

16 A. On the job. He basically watched me.

17 Q. Do you know when that was?

18 A. No.

19 Q. Other than those one or two days, did you ever work  
20 on any jobs at Oil States where there was more than one  
21 crane operator on a job?

22 A. No, I did not.

23 Q. Do you recall whether you worked on any job with  
24 more than one grease operator on a shift?

25 A. Maybe if he was OJTing somebody.

**Michael Burchik - Direct**

1 Q. If a grease operator was OJTing, were you involved  
2 in training that --

3 A. No, sir, I was not.

4 Q. Let me finish the question so we make sure we have  
5 a clear record.

6 Were you involved in showing that person how  
7 to operate the pressure control equipment?

8 A. No, sir, I did not.

9 Q. How many crews were typically assigned to each job?

10 A. Normally two crews.

11 Q. What was the normal schedule of those crews?

12 A. 12-hour shifts.

13 Q. What time would those shifts typically start?

14 A. Normally six a.m. to six p.m.

15 Q. When you worked at Oil States, would you typically  
16 work -- is one of those the day shift, one is the night  
17 shift?

18 A. Yes.

19 Q. Would you typically work one of those shifts or the  
20 other?

21 A. Yes.

22 Q. Which one did you normally work?

23 A. Normally the day shift.

24 Q. How long was the typical shift that you worked at  
25 Oil States?

**Michael Burchik - Direct**

1 A. A 12-hour typical shift.

2 Q. Were some of your shifts shorter than 12 hours?

3 A. Yes, sir, some were shorter.

4 Q. In what circumstances would a shift be shorter than  
5 12 hours?

6 A. If something would arise, some kind of problem,  
7 pump go down or something of that nature.

8 Q. Were there circumstances when your shift was longer  
9 than 12 hours?

10 A. Yes, sir.

11 Q. And in what circumstances might you have to keep  
12 working more than 12 hours in a day?

13 A. If we started the job and we run into the second  
14 shift, we would probably stay longer.

15 Q. How often did that happen?

16 A. Maybe several times a month or whatever.

17 Q. But what was the length of your typical shift at  
18 Oil States?

19 A. 12-hour shifts.

20 Q. Would you typically arrive and leave at the same  
21 time each day?

22 A. Yes.

23 Q. Why was that?

24 A. Typical shift.

25 Q. Were you allowed to leave before your relief got

**Michael Burchik - Direct**

1   there?

2   A.   No, you were not.

3   Q.   When you were working at these wellsites, were  
4   there any Oil States employees at the wellsites other  
5   than the crane operator and the grease operator?

6   A.   No.  It was normally just two people.

7   Q.   As the crane operator at one of these wellsites,  
8   were you ever responsible for supervising anyone else at  
9   the wellsite?

10   A.   No, I was not.

11   Q.   Were you ever responsible for overseeing the work  
12   that anyone else did?

13   A.   No, I was not.

14   Q.   Were you ever involved in telling anyone else at  
15   the wellsite what to do?

16   A.   No, I was not.

17   Q.   What was your role at the wellsite?

18   A.   I operated the crane period.

19   Q.   When you were working at these wellsites, where  
20   were they typically located?

21   A.   Normally, in the mountains, in secluded type  
22   places, West Virginia, Ohio, or Pennsylvania.

23   Q.   These wellsites, how close were they to cities or  
24   towns?

25   A.   Normally, they were quite a distance.

**Michael Burchik - Direct**

1 Q. Why is that?

2 A. Well, they were out in the mountains and naturally  
3 the wellsites weren't close to any community.

4 Q. When you were working at the wellsites, where would  
5 you typically sleep at night?

6 A. Hotel. Normally the closest hotel we could find.

7 Q. Normally where were those hotels located?

8 A. On average 45 minutes or so.

9 Q. 45 minutes each way, hour and a half total?

10 A. Yes.

11 Q. A moment ago you said that most of your shifts were  
12 about 12 hours long. Does that include the time that is  
13 spent driving to and from the wellsites?

14 A. No, that did not.

15 Q. So, that time driving, was that in addition to the  
16 12 hours?

17 A. Yes, it was.

18 Q. How would you typically travel from the hotel to  
19 the wellsite?

20 A. Our company truck.

21 Q. If you could just describe for the jurors what kind  
22 of truck you had.

23 A. I had a Ford 150 4x4 pickup and the engine size was  
24 5.0.

25 Q. That truck, who owned that truck?



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1 A. Oil States owned it.

2 Q. Was that assigned to you?

3 A. That was assigned to me, yes.

4 Q. Did you share that truck with anyone else?

5 A. No, sir, I did not.

6 Q. Do you recall when Oil States assigned that truck  
7 to you?

8 A. I got that around January of 2012.

9 Q. Once Oil States assigned that truck to you, was the  
10 same truck assigned to you until you left the company?

11 A. Yes, sir, it was.

12 Q. Could you go to the document marked Exhibit 72,  
13 please.

14 A. Okay.

15 Q. There's two pages to that document. Feel free to  
16 look through them.

17 What is that document?

18 A. It looks like a sticker number from the Ford Motor  
19 Company.

20 Q. And have you seen this document before today?

21 A. Yes, I have.

22 Q. And this document, do you know which truck this  
23 relates to?

24 A. Actually, it relates to my truck. It has the VIN  
25 number on it.

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1 Q. Do you recognize the VIN number from your assigned  
2 truck?

3 A. Yes. Mine was 8861.

4 Q. If you look through the specifications of that  
5 truck, do they appear to match your truck?

6 A. Yes, they do.

7 MR. WARREN: Your Honor, I would ask to  
8 publish this document.

9 THE COURT: Yes.

10 Q. All right. Let's start with this first page and  
11 I'll point out there's a number right there  
12 (indicating). What is your understanding of what that  
13 number is?

14 A. The VIN number was my Vehicle Identification Number  
15 assigned to my truck.

16 Q. That's the VIN number for your company assigned  
17 truck?

18 A. Yes, it is.

19 MR. WARREN: Milly, go to Page 2, please.

20 Q. Mike, do you see the VIN number for your truck on  
21 this document as well?

22 A. It's in the center of the page 8861.

23 Q. That up there (indicating)?

24 A. That's it, yes.

25 Q. Does this document describe the specifications for

**Michael Burchik - Direct**

1 your truck?

2 A. Yes, it does.

3 Q. What does this document say the specifications are?

4 A. It's 2011 Ford 150 4x4 super cab with 5.0 V8  
5 engine.

6 Q. Was this, in fact, the type of truck that was  
7 assigned to you by Oil States?

8 A. That's it exactly.

9 Q. Mike, are you familiar with the term "gross vehicle  
10 weight rating?"

11 A. Yes.

12 Q. Do you happen to recall what the gross vehicle  
13 weight rating your company assigned to your truck was?

14 A. Mine was around 7,200 pounds, in that range.

15 Can you turn to Exhibit 77.

16 Before we show this to the jury, could you  
17 just identify what this document is. It's a whole bunch  
18 of pages, so feel free to flip through it if you'd like.

19 A. It just shows the different types of Ford 150.

20 Q. I'm going to have you turn in your binder -- there  
21 are some page numbers at the bottom of the document.  
22 There's five digit numbers and regular one and two digit  
23 numbers. Do you see those?

24 A. Yes.

25 Q. Can you go to Page 84 with the smaller page

**Michael Burchik - Direct**

1 numbers.

2 What is shown on this page of the document?

3 A. Weight ratings of certain vehicles.

4 Q. Are the weight ratings, did these relate to the  
5 type of truck that was assigned to you at Oil States?

6 A. Yes.

7 Q. Have you reviewed this document before today?

8 A. Yes.

9 Q. Do you see your truck in this document?

10 A. 4x4, yes.

11 MR. WARREN: Your Honor, may I publish this  
12 document?

13 THE COURT: Yes.

14 Q. All right, Mike. Now that we got that up on the  
15 screen --

16 MR. WARREN: Milly, could you zoom in on the  
17 middle of the document there.

18 Q. Mike, can you point out where you see your truck on  
19 this document?

20 A. It's a super cab 4x4, 5.0 (indicating).

21 Q. So, the record reflects the dot is on the super cab  
22 4x4 HDC?

23 A. 5.0 liter.

24 Q. And does this document reflect the gross vehicle  
25 weight rating of your truck?

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1 A. Yes, 8,200 pounds.

2 Q. And is that consistent with your recollection of  
3 what the gross vehicle weight rating was of your truck?

4 A. Yes.

5 Q. Was there a Department of Transportation sticker  
6 number on your truck?

7 A. No.

8 Q. Was there any hazardous materials warning on that  
9 truck?

10 A. No.

11 Q. While you worked at Oil States, what was your  
12 understanding of whether that truck was a DOT regulated  
13 vehicle?

14 A. It was not regulated by the DOT. It didn't fit the  
15 weight class.

16 Q. Were you ever told by any of your managers at Oil  
17 States that you needed to take that truck through a  
18 weigh station?

19 A. No, sir, I was not.

20 Q. Was there anything in the back of your company  
21 pickup truck?

22 A. I had a toolbox and a fuel tank, diesel fuel tank.

23 Q. What type of tools did you carry in that toolbox?

24 A. I normally carried tools that related to my job.

25 Q. Could you give the jurors some examples of stuff

**Michael Burchik - Direct**

1 that was in there.

2 A. Basically carried lifting straps, slings that I  
3 used on the job.

4 Q. How often would you need to use the tools that were  
5 in your toolbox?

6 A. I normally used them every time I was on the job.

7 Q. Did you need to have those tools with you on the  
8 job?

9 A. Yes.

10 Q. Did you need to have your pickup truck with you on  
11 the job?

12 A. Yes, sir, once I spotted the crane and I couldn't  
13 move it no more.

14 Q. Were you permitted to take your personal vehicle to  
15 the wellsites?

16 A. No, sir, we were not.

17 Q. I believe you said there was a diesel tank in the  
18 back of the truck?

19 A. Yes.

20 Q. Was that separate from the diesel tank -- what type  
21 of fuel did you use in your pickup?

22 A. My pickup was regular gasoline. The fuel tank I  
23 had was a diesel fuel that I used for the crane itself.

24 Q. And so you used that spare tank to refill your  
25 crane?

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1 A. Yes, sir.

2 Q. Do you recall the capacity, how many gallons that  
3 spare diesel tank held?

4 A. I believe between 80 and 90 gallons.

5 Q. And what equipment did you -- would you use that  
6 diesel tank to refill any equipment other than your  
7 crane?

8 A. Maybe the grease unit if something happened to his  
9 tank, it was inoperable, whatever.

10 Q. Did you need to have that spare diesel tank with  
11 you at the wellsite in order to perform your job?

12 A. Yes, I did.

13 Q. Why is that?

14 A. Normally, the crane operators operated around the  
15 clock and probably had to fill it maybe every couple  
16 days to keep it operational.

17 Q. Between 2012 and 2015, how often did you use your  
18 assigned pickup truck?

19 A. I used it on every job.

20 Q. You used the pickup on every job?

21 A. Yes.

22 Q. How many days a week were you using your pickup  
23 truck?

24 A. Every day. If we was on a job, it might be two  
25 days, it might be 30 days, whatever.

**Michael Burchik - Direct**

1 Q. Would you use your pickup truck each day you were  
2 on the job?

3 A. Yes.

4 Q. At the beginning of the job when you started a new  
5 job, where would you typically leave from to travel to  
6 that job?

7 A. We normally left from the Canonsburg shop or we  
8 might leave from another job site.

9 Q. And when you were leaving from the Canonsburg shop  
10 or another job site, what vehicle were you using to  
11 travel to the wellsite where you were going?

12 A. My assigned work truck.

13 Q. When you finish a job, where would you typically  
14 travel to?

15 A. Well, if we wasn't going to another job site, we  
16 probably go back to the hotel to pack up and back to the  
17 shop.

18 Q. And you would travel from the hotel back to the  
19 Canonsburg shop?

20 A. Back to the Canonsburg shop.

21 Q. At the end of the job when you were traveling back  
22 to the shop, what vehicle did you use for those trips?

23 A. My assigned work truck.

24 Q. Between 2012 and 2015, would you ever work on  
25 wellsites outside of Pennsylvania?



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1 A. Yes, sir, I did.

2 Q. How often were you working at wellsites in other  
3 states?

4 A. I don't recollect but maybe a couple times a year.

5 Q. A couple times a year you were going to other jobs?

6 A. West Virginia.

7 Q. Jobs in other states?

8 A. Yes, sir.

9 Q. What states were you traveling to?

10 A. West Virginia and Ohio.

11 Q. How long did those jobs typically last?

12 A. It kind of varied. It could be 30 days to 50, 60  
13 days.

14 Q. When you went to another state for a job, where  
15 would you leave from?

16 A. Normally the hotel if we was out of state.

17 Q. When you were at the beginning of the job when you  
18 were traveling to the wellsite for the first time, where  
19 did you leave from?

20 A. The company shop in Canonsburg.

21 Q. What vehicle would you use to get from the  
22 Canonsburg shop to the job site in those other states?

23 A. My assigned work truck.

24 Q. During the job where you were staying during the  
25 middle of the job?

**Michael Burchik - Direct**

1 A. Normally at a hotel.

2 Q. How were you traveling between the wellsites and  
3 the hotels?

4 A. My assigned work truck.

5 Q. Are you familiar with the term "hotshot?"

6 A. Yes, sir.

7 Q. What does that term mean to you?

8 A. It was basically a title assigned to a driver that  
9 carried equipment to a wellsite or another company.

10 Q. So, when someone is on a hotshot trip, what are  
11 they doing?

12 A. They are normally moving equipment to another  
13 location.

14 Q. When you worked at Oil States, would you ever use  
15 your company truck to perform hotshots?

16 A. Yes, I did.

17 Q. When you used your company pickup truck to do a  
18 hotshot, what were you doing?

19 A. Moving equipment or something that had to go to  
20 another job site or company.

21 Q. What types of tools or equipment were you  
22 hotshotting?

23 A. Normally small stuff that can fit in a 150,  
24 flanges, grease, torque wrenches.

25 Q. Were you required to perform hotshots as part of

**Michael Burchik - Direct**

1 your job at Oil States?

2 A. No, I wasn't.

3 Q. Did you perform hotshots?

4 A. I did, yes, I did.

5 Q. Why would you perform them if you weren't required  
6 to do so?

7 A. I was told to.

8 Q. What is the difference in your mind between being  
9 told to do it and being required to do it?

10 A. I was required. It's part of your job title. If  
11 you are just told to do something is because you had to  
12 do it.

13 Q. When you worked at Oil States, did your managers  
14 tell you, you had to do hotshots?

15 A. Yes, sir.

16 Q. Did you ever refuse to do a hotshot?

17 A. Yes, sir, I did.

18 Q. What happened?

19 A. They normally grounded me from going onto another  
20 job.

21 Q. So, if you said you wouldn't do a hotshot, they  
22 said we're not going to let you do another job?

23 A. That's correct.

24 Q. When you worked at Oil States, would you keep any  
25 records of the hotshots you performed?

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1 A. No, we did not.

2 Q. Do you know if Oil States kept any records of the  
3 hotshots that was performed?

4 A. I really don't think there was any documents to be  
5 maintained.

6 Q. When you were working in the shop, would you use  
7 your truck for any work purposes around town other than  
8 hotshots?

9 A. No, sir.

10 Q. Were you ever required to purchase any supplies?

11 A. Yes, sir, from like Advance Auto or something like  
12 that.

13 Q. What type of supplies might you have to purchase?

14 A. Normally cleaning material for the crane.

15 Q. Who would ask you or instruct you to go buy those  
16 supplies?

17 A. Well, if I needed cleaning material, I would do  
18 that.

19 Q. Would you do that during business hours?

20 A. It had to be before or after the job.

21 Q. Before or after you went to a wellsite?

22 A. Yes, exactly.

23 Q. And I'm sorry, what type of stuff were you buying?

24 A. Cleaning material, WD-40, rags, whatever.

25 Q. Did you need those materials in order to perform

**Michael Burchik - Direct**

1 your job?

2 A. Yes, sir. Sometimes the grease would get so heavy  
3 on the windshield we couldn't see out.

4 Q. When you purchased those materials, who paid for  
5 them?

6 A. Oil States paid for it.

7 Q. So, you were buying those materials in the course  
8 of your job?

9 A. Yes.

10 Q. A moment ago we discussed that spare diesel tank  
11 that is in your company assigned pickup truck.

12 What time of day or when would you typically  
13 fill up that spare diesel tank?

14 A. It was normally before a job or after a job during  
15 the course of the day.

16 Q. What types of places would you buy the fuel that  
17 you put into the tank, where would you buy it?

18 A. Regular fuel station or truck stop, whatever.

19 Q. Would you do that between the hotel and the  
20 wellsite?

21 A. Yes.

22 Q. And when you purchased fuel to put in the fuel tank  
23 to use to refill the crane, how would you pay for that  
24 fuel?

25 A. We had assigned fuel cards.

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1 Q. And can you just describe for the ladies and  
2 gentlemen of the jury how that fuel card worked?

3 A. Each driver was assigned a card, a credit card just  
4 for fuel only. It was specifically assigned to that  
5 vehicle. Then when we went to the truck stop, we used  
6 that card to purchase our fuel.

7 Q. Did you have your own number, a pin number or any  
8 sort of number you used?

9 A. There was a pin number but I can't recollect that  
10 number.

11 Q. Did you share your pin number with anyone?

12 A. No, sir.

13 Q. Can I, Mike, ask you to turn to Tab 71 in your  
14 binder.

15 THE COURT: Counsel, let's take a break while  
16 the witness is looking at that.

17 Ladies and gentlemen, we'll take a ten-minute  
18 break, a comfort break, and we'll come back in about ten  
19 after three.

20 Thank you very much.

21 (Whereupon, the jury exited the courtroom.)

22 (In open court, jury not present.)

23 THE COURT: Sir, you are under oath, so you  
24 cannot speak to anyone concerning your testimony during  
25 this break. Do not speak to counsel or anybody during

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1 your testimony. Do not speak to anyone.

2 (Whereupon, a break was taken.)

3 DEPUTY CLERK: All rise.

4 (Whereupon, the jury entered the courtroom.)

5 (In open court, jury present.)

6 MR. DAVIS: Your Honor, can we approach for  
7 one brief second.

8 THE COURT: Sure.

9 (Sidebar discussion held as follows:)

10 THE COURT: Yes, counsel?

11 MR. DAVIS: The reason I was confused by that  
12 exhibit he handed him with the annual compensation, the  
13 copy he handed him had the numbers on it but my copy did  
14 not.

15 THE COURT: It's not getting introduced.

16 MR. DAVIS: I know but I'm afraid they are  
17 going to do that with the hours worked document as well.  
18 That was actually prepared by counsel, not the witness.

19 THE COURT: That's a fair point. How are you  
20 going to do that?

21 MR. WARREN: The document is not going to be  
22 introduced in accordance with the judge's ruling.

23 I will say on that issue, we conferred with  
24 Mr. Davis during the break, it was entirely inadvertent,  
25 the last page was pulled off.

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1 THE COURT: Yeah, mine didn't have it either.  
2 I just figured you did.

3 MR. WARREN: I didn't realize that.  
4 Obviously, I happy to produce that.

5 THE COURT: It is not going to be shown. What  
6 does it say about the hours?

7 MR. WARREN: The witnesses are going to  
8 testify about how they calculated their hours, the  
9 documents they relied on, the process they went through,  
10 and then they're going to testify about the numbers they  
11 have come up with and what their calculations are.

12 THE COURT: This is based on their own  
13 knowledge, not show any document?

14 MR. WARREN: That's right, we are not going to  
15 introduce any document. We are going to talk through  
16 the admissible documents they used for the calculation  
17 and how that process was done and then they're going to  
18 explain they have done a calculation.

19 THE COURT: Based on those documents.

20 MR. WARREN: And that's the documents we  
21 produced in the case, and we will refresh his  
22 recollection of the total number and then they're, of  
23 course, free to cross-examine.

24 THE COURT: You will not introduce it as an  
25 exhibit?



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1 MR. WARREN: That's correct, Your Honor.

2 THE COURT: What's your concern?

3 MR. DAVIS: Well, counsel prepared --

4 THE COURT: You can cross-examine on this.

5 MR. DAVIS: Showing him the document with a  
6 number they calculated?

7 THE COURT: It sounds like pretty good  
8 cross-examination, right, if he goes that far. That's a  
9 pretty good cross-examination question. Is that your  
10 number or a number that your lawyer gave you.

11 Let's go.

12 (Sidebar discussion was concluded.)

13 THE COURT: You may proceed.

14 BY MR. WARREN:

15 Q. Before we took a break, I believe you were opening  
16 up Exhibit 71. Are you there now?

17 A. Yes.

18 Q. Could you please just explain what is shown in this  
19 document.

20 A. I believe this is a fuel document of my vehicle.

21 Q. And have you had a chance to look through this  
22 report before today?

23 A. Yes, sir.

24 Q. And do you believe this document accurately  
25 reflects the fuel transactions that you performed with

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1 your company fuel card?

2 A. Yes, sir.

3 MR. WARREN: Your Honor, may I publish?

4 THE COURT: Yes.

5 MR. WARREN: Thank you.

6 Milly, for the record, this record includes a  
7 lot of other people other than Mr. Burchik. I'm going  
8 to ask you to filter this document so only Mr. Burchik's  
9 name is shown.

10 Go over to the left side. Filter Column E so  
11 it only shows Mr. Burchik's name.

12 BY MR. WARREN:

13 Q. Mike, if you could go through and just explain your  
14 understanding of what the different information is  
15 that's in this report?

16 A. Other than my name, it has a date, transaction  
17 date, day of the week, odometer of the vehicle, the  
18 product name, the fuel I'm getting, the cost of the  
19 fuel, how many gallons I got, how much I spent, and the  
20 site of where I purchased the fuel at.

21 MR. WARREN: Milly, if you could scroll down  
22 and pick a month in 2013. If you can scroll down on the  
23 document, Column G.

24 That's fine.

25 Q. Mike, as you are looking at this document, do you

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1 believe this document accurately shows the fuel  
2 transactions you are doing in 2012, 2013, 2014?

3 A. Yes, sir, I do.

4 Q. And how often does it look like you are using your  
5 fuel card to fill up -- to purchase fuel?

6 A. Every other day it looks like.

7 Q. When you purchased fuel at these fuel stations, did  
8 you have a practice of -- would you typically fill up  
9 the spare diesel tank at the same time as your work  
10 truck or would you do those separately?

11 A. They had to be done separately because I would have  
12 to shut one pump off and do the other one.

13 Q. Would you typically fill up the diesel tank at the  
14 same time you were filling up your work truck, in other  
15 words, at the same stop?

16 A. Yes, sir, normally, I would.

17 Q. This fuel transaction report, is this consistent  
18 with your recollection you were filling up the diesel  
19 tank and truck every two or three days?

20 A. Yes, sir.

21 MR. WARREN: Thanks, Milly. You can take that  
22 down.

23 Q. All right, Mike, I would like to have you take some  
24 time and explain to the jurors the type of work you were  
25 doing when you were working in the shop.

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1 Can you say again where was the shop located?

2 A. Canonsburg, Pennsylvania.

3 Q. What did the shop look like? Can you describe it  
4 for the ladies and gentlemen of the jury.

5 A. Basically, a very large garage with several bays, I  
6 think it was seven or eight bays. Some were designated  
7 as wash bays, some for receiving equipment, and some for  
8 dispatching equipment. It had an overhead crane and had  
9 a tool area, spare parts, et cetera.

10 Q. When you were working in the shop, what part of the  
11 shop were you working in?

12 A. On the open floor basically.

13 Q. Did you have an office or a desk in the shop?

14 A. No, we did not.

15 Q. Would you do computer work when you were working in  
16 the shop?

17 A. No, sir.

18 Q. When you were on the open shop floor, what type of  
19 work were you doing?

20 A. Well, if we wasn't working on the crane, we was  
21 doing other designated stuff, cleaning equipment,  
22 painting lines on the floor.

23 Q. Let's start with the work you were doing on the  
24 crane. What type of work would you do on the crane in  
25 the shop?

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1 A. Well, we'd wash the crane especially after a job,  
2 we would grease the crane, any moveable parts we would  
3 more or less want to grease. We would make sure the  
4 line, the rope wasn't frayed, everything was good, in  
5 good working shape.

6 Q. Once you finished doing that kind of work, were you  
7 ever responsible for heavy maintenance on the crane,  
8 engine work, stuff like that?

9 A. No, sir. We sourced that out to regular people  
10 that maintained cranes.

11 Q. Would you do light basic maintenance on the cranes?

12 A. No maintenance whatsoever other than greasing it  
13 and washing it.

14 Q. Once you finished doing the work you just described  
15 on the crane, what else would you be doing on the shop,  
16 other than painting lines on the floor?

17 A. Helping the greasers to clean up the equipment,  
18 changing O-rings, stacking spare parts.

19 Q. How did you know how to change the O-rings in the  
20 pressure control equipment?

21 A. Normally, the greaser would show us what to do and  
22 what rings had to be changed, what sizes.

23 Q. Could you just describe in a little bit more detail  
24 for the ladies and gentlemen of the jury what you're  
25 doing when you are working on the pressure control

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1 equipment in the shop.

2 A. Basically, like the lubricator it has O-rings  
3 inside of it. The old ones you have to cut out and  
4 clean the tubes inside and out.

5 It would be real greasy and there are certain  
6 size rings that go inside. You have to put the ones in  
7 and grease it down and prepare it for the next job.

8 Q. While you worked at Oil States, did you ever  
9 receive any formal training on how to do that type of  
10 work you just described?

11 A. Training, no. It was just the greasers showing you  
12 what to do.

13 Q. The pressure control equipment, how does it get all  
14 taken apart?

15 A. The unit itself?

16 Q. The pieces of the lubricator, the different steel  
17 components.

18 A. Basically, you have an overhead crane and it's all  
19 taken off the trailer and broken down. It's already  
20 normally broken down when it's strapped on a trailer for  
21 transport.

22 That's taken off the trailer itself and it  
23 goes to certain areas within the shop where actually  
24 there's room. Certain types of equipment, the rigs are  
25 checked, the hoses are rolled out and cleaned and the

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1 units filled with grease, fueled and basically once over  
2 the whole packet.

3 Q. Were there any folks who worked in the shop whose  
4 job was to just do this type of work you described?

5 A. Yes, there were a couple shop hands where that's  
6 all they did was take care of the equipment, make sure  
7 it was done right if other people were doing it.

8 Once it was all put together, it was normally  
9 pressure tested in a certain booth.

10 Q. And the shop hands, how did the duties that you  
11 were performing when you worked in the shop, how did  
12 your duties compare to the duties and the work that the  
13 shop hands were doing?

14 A. There wasn't no comparison. They did hourly shop  
15 work and we just operated a crane. We just helped one  
16 another.

17 Q. When you are working in the shop, how did the work  
18 you are doing in the shop compare to the work the shop  
19 hands are doing?

20 A. It's basically the same other than the crane.

21 Q. When you say "other than the crane," were you  
22 operating cranes when you were at the shop?

23 A. Other than getting it cleaned up, no.

24 Q. Were you actually picking up pressure control  
25 equipment when you were working at the shop?

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1 A. No, not with the crane. Normally, they had an  
2 overhead crane that would do that.

3 Q. Who operated those overhead cranes?

4 A. Anyone in the shop is qualified to do it. You had  
5 to be qualified but I believe everyone was.

6 Q. You believe everyone in the shop was qualified?

7 A. Yes, sir.

8 Q. Do you know what was required to be qualified?

9 A. I don't know if there was a test for non-crane  
10 operators but you did have to have a certain amount of  
11 instruction on how to operate the crane itself.

12 Q. When you were working in Oil States, were you ever  
13 involved in interviewing job applicants?

14 A. No, sir, I was not.

15 Q. Have you ever been involved in the hiring process  
16 at all at Oil States?

17 A. No, sir, I have not.

18 Q. While you worked at Oil States, had you ever  
19 recommended anyone that Oil States hire anyone?

20 A. No, sir, I did not.

21 Q. While you worked at Oil States, did you ever make  
22 any recommendations or suggestions about whether Oil  
23 States should discipline someone?

24 A. No, sir, I did not.

25 Q. Did you ever make any recommendations about whether



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1 Oil States should fire someone?

2 A. No, sir.

3 Q. Were you involved in any aspect of the process of  
4 running the company, doing back office work?

5 A. No, sir.

6 Q. So, were you involved in any type of office work at  
7 all when you were working at the shop?

8 A. No, sir.

9 Q. Were you involved in -- other than I believe you  
10 said there was one or two days when you did on-the-job  
11 training, is that right?

12 A. For one lad, yes.

13 Q. Other than those one or two days, were you ever  
14 involved in training anyone in Oil States?

15 A. No, sir.

16 Q. When you were working in the shop, were you ever  
17 supervising anyone?

18 A. No.

19 Q. Were you ever telling anyone what type of work they  
20 should be doing?

21 A. No.

22 Q. Did anyone in the shop report to you?

23 A. No, sir.

24 Q. Did you oversee the work that anyone else was  
25 doing?

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1 A. No, sir.

2 Q. Were you ever involved in determining the amount of  
3 compensation that should be paid to another employee?

4 A. No, sir, I was not.

5 Q. Did you have any involvement whatsoever in the  
6 company's budgeting?

7 A. No, sir, I did not.

8 Q. Were you involved in stuff like buying new  
9 equipment or deciding what equipment to purchase?

10 A. No, sir.

11 Q. Were you involved in deciding what equipment Oil  
12 States would send out on jobs?

13 A. No, sir.

14 Q. Were you ever involved in deciding which employees  
15 would be sent out on jobs?

16 A. No, sir.

17 Q. Did you perform anything that you considered to be  
18 a white collar job duty while you were working in the  
19 shop?

20 A. No, sir, I did not.

21 Q. What were the shop hours when you worked in the  
22 shop?

23 A. Shop hours were eight to five, minus an hour for  
24 lunch.

25 Q. Would you ever work on the weekends?

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1 A. Yes, sir. Normally, we worked Saturdays but  
2 Sundays we were normally off.

3 Q. Would you receive overtime pay when you came in and  
4 worked on a Saturday?

5 A. No, sir.

6 Q. Would you receive any overtime pay when you worked  
7 on a Sunday?

8 A. No, sir.

9 Q. How strict was the company about shop hours?

10 A. I believe they had a policy by Brian Victor that  
11 designated the shop hours.

12 Q. Who was Brian Victor?

13 A. He was a supervisor prior to Adam.

14 Q. When you say "Adam," who are you referring to?

15 A. Adam Fowler, the current supervisor.

16 Q. When you say "supervisor," are you referring to the  
17 district manager?

18 A. Yes, sir.

19 Q. Did Mr. Brian Victor have Adam Fowler's job before  
20 Mr. Fowler?

21 A. Yes, he did.

22 Q. Do you recall roughly when Mr. Victor left the  
23 company?

24 A. I believe 2013-'14. I'm not really sure.

25 Q. When Mr. Victor was working at Oil States, how, if

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1 at all, were the shop hours different than when  
2 Mr. Fowler was the district manager?

3 A. I believe the shop hours were the same.

4 Q. You believe the shop hours were the same?

5 A. Yes.

6 Q. Do you recall whether Mr. Victor was -- what was  
7 his attitude toward shop hours? Do you recall anything  
8 about that?

9 A. Well, he was adamant about us staying at the  
10 shop -- working the shop hours as they were designated.

11 Q. What was Mr. Victor's just general demeanor in  
12 life, what kind of person was he?

13 A. He was a nice fellow. He was just strict on the  
14 hours, that's all.

15 Q. Was he strict on the hours about working weekends?

16 A. Yes, he was pretty adamant about that, also.

17 Q. Do you remember what he would say about working on  
18 weekends?

19 A. He wanted us there at the shop. If we wasn't on  
20 the job, he wanted us there.

21 Q. What hours did he want you there?

22 A. Eight to five.

23 Q. Were there circumstances where you had to work past  
24 five p.m. when you were working in the shop?

25 A. Yes, there was.

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1 Q. Can you describe for the ladies and gentlemen of  
2 the jury what some of those circumstances might be?

3 A. Well, if we had a package together to go out on a  
4 job or if he was designated as the hotshot to take some  
5 equipment to a job, after duty hours, then you would  
6 have to do it.

7 Q. When you would work past five p.m., did you ever  
8 receive any overtime pay for those hours?

9 A. No, sir, we did not.

10 Q. Did you ever receive any job bonus in any form of  
11 those hours?

12 A. No, sir, we did not.

13 Q. Earlier you described hotshots you performed. Did  
14 you ever receive a bonus for any hotshots you performed?

15 A. No, sir.

16 Q. When you worked at Oil States, did you clock in and  
17 clock out during the day?

18 A. No, we weren't required to clock in or out.

19 Q. Would you keep track of the hours you worked in the  
20 shop?

21 A. No, not necessarily.

22 Q. Do you know if Oil States kept any record of the  
23 hours you worked in the shop?

24 A. I don't believe they had records that indicated our  
25 shop hours.

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1 Q. Have you ever seen any time records that showed the  
2 hours that you were working at the shop?

3 A. No, sir, I did not.

4 Q. What about the hours you worked at the  
5 wellsite -- let me first ask this. Did you record days  
6 you worked in the shop?

7 A. I believe there was a time period we had to do a  
8 man hours report but I think that particular block could  
9 be left blank. I don't recall.

10 Q. We'll talk about those documents in just one  
11 second.

12 Other than those man hours reports, do you  
13 recall any other document that showed the days you  
14 worked in the shop?

15 A. No, sir.

16 Q. What about the days that you worked at wellsites,  
17 would you keep track of the days you worked at the  
18 wellsite?

19 A. Normally, the days we worked on a wellsite we kept  
20 a tally of.

21 Q. When you say you kept a tally of, where would you  
22 record that information?

23 A. A tally book, a little notebook that mostly all the  
24 guys kept in order to keep track of their bonuses.

25 Q. Why did you keep a tally book?

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1 A. Initially, when I first started, they would be  
2 sending me out on a job with a boom truck but there was  
3 no ticket to go along with a bonus packet, so I couldn't  
4 file my bonus packet unless I had a ticket.

5 So, it was told to me if you wanted to get  
6 paid, you should keep a running tally of the jobs you  
7 worked on and the number of days.

8 Q. Do you remember roughly when you started keeping  
9 those tally books?

10 A. The very first year, maybe within the first couple  
11 months that I was working there.

12 Q. If you could turn in your binder, please, to Tab  
13 No. 12.

14 A. I don't have a 12. It jumps to 14.

15 Q. We'll find Tab 12 for you but why don't you go to  
16 14. What is that document?

17 A. It's a ticket for a wellsite and the name of the  
18 pad is Chris well.

19 Q. You said it's a ticket. Can you describe for the  
20 jurors what a ticket is.

21 A. It's just an authorized document that was generated  
22 to rent equipment to that particular company that was  
23 working on the well.

24 Q. And were those tickets, were they part of a group  
25 of other documents?

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1 A. They were a part of our bonus packet when we filled  
2 it out.

3 Q. All right. These documents that you're looking  
4 through under Exhibit 14, are those your bonus packets?

5 A. This particular one here (indicating), yes, it is.

6 Q. It's a pretty thick stack. I won't ask you to look  
7 through every document, but if you can skim through and  
8 see if this appears to be your bonus packets.

9 (Pause in the proceedings.)

10 A. Well, I see some are mine and some are mine. I see  
11 quite a few of those with my name on it.

12 MR. WARREN: Your Honor, may I publish?

13 THE COURT: Yes.

14 Q. Mike, could you please explain to the ladies and  
15 gentlemen on the jury what is shown -- what information  
16 is on the ticket.

17 A. Basically, the ticket number right there is the  
18 number that you want to concern yourself with. If  
19 you're going to get pay for, you need that number. It  
20 designates that particular job.

21 It shows the operators and myself and Wayne  
22 Eddy, the type crane I'm using, and how much the crane  
23 cost.

24 Q. Who actually filled out these tickets?

25 A. These are generated from our dispatch office I



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1 believe.

2 Q. Did you ever generate that ticket?

3 A. No, sir.

4 Q. And would someone give that ticket to you?

5 A. Yes. It was given to us prior to departure.

6 Q. What would you do with it?

7 A. We would carry it to the job site and the company  
8 man would sign it once the job was finished.

9 Q. Let's put that down and I'm going to hand you a  
10 binder. I think we tracked down Tabs 12 and 13. See if  
11 you can set that one to the side.

12 Could you identify what that document is?

13 A. This particular document is a copy of my tally  
14 book.

15 Q. Is that your handwriting?

16 A. That is my handwriting.

17 Q. Is that a document you filled out?

18 A. Yes.

19 MR. WARREN: May I publish?

20 THE COURT: Yes.

21 Q. So, if you could just describe for the ladies and  
22 gentlemen of the jury what type of information you would  
23 write in your tally books?

24 A. Basically the top information up here (indicating),  
25 the ticket number, the location of the site, the

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1 wireline unit we were working for right there  
2 (indicating), the other shift people was Steve and Don,  
3 this is the pad name with three wells on it, this is the  
4 type of crane I used, and these are the tickets for the  
5 three wells (indicating).

6 Q. On the right side, what type of information are you  
7 recording on the right side of that page?

8 A. On the right side, basically since my job is so  
9 repetitious, I normally record the date, a couple items  
10 I do and the shift and the number of hours for the  
11 shift.

12 Q. So, could you just pick one of those entries and  
13 read for the jurors what you are writing in your tally  
14 books?

15 A. This particular one says on location on a Sunday at  
16 10:00, I picked up and set the lubricator, BOP and lube  
17 well 3H. At 11:20, I removed it and laid down at 2:00,  
18 and I fueled the crane.

19 Q. If you could just flip through the PDF, the paper  
20 copy you have, and see what date range is covered by  
21 this particular tally book?

22 A. This is April 12<sup>th</sup> and it goes into May 6, May 7,  
23 May 8<sup>th</sup>.

24 Q. Of 2012?

25 A. May 8<sup>th</sup>, 2012.

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1 Q. Let me have you please flip to Tab 13. Could you  
2 identify what that document is.

3 A. It's the same document, just another company,  
4 another day. It's October the 9<sup>th</sup> of 2012.

5 Q. Is this another one of your tally books?

6 A. Yes, it is.

7 MR. WARREN: Your Honor, may I publish?

8 THE COURT: Yes.

9 Q. If you could, could you flip through and tell the  
10 ladies and gentlemen of the jury what date range is  
11 covered by this particular tally book.

12 A. Date range is October 9, 2012, October 19<sup>th</sup>, October  
13 20<sup>th</sup>, October 22<sup>nd</sup>, October 23<sup>rd</sup>, 25<sup>th</sup>, 26<sup>th</sup>, October  
14 29<sup>th</sup> -- October 29<sup>th</sup> was the last job. So, October the  
15 9<sup>th</sup> through the 29<sup>th</sup>.

16 Q. I want to make sure the record is clear, October of  
17 2012?

18 A. 2012, yes, sir.

19 Q. What was the end date?

20 A. The 29<sup>th</sup>, 2012.

21 Q. Okay. Could you go through -- if you look on the  
22 first page of Exhibit 13, would you always record the  
23 time that you arrived at the wellsite and the time that  
24 you left the wellsite?

25 A. No, sir, I did not. We did 12-hour shifts and that

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1 was like basic.

2 Q. So, you felt you didn't need to write the time you  
3 arrived?

4 A. My concern was to have the company name, the  
5 delivery ticket, and the dates I worked.

6 Q. If you look on these entries on the first page,  
7 let's look on the 11<sup>th</sup> and the 12<sup>th</sup>, are you able to  
8 figure out what your general hours were at the wellsite  
9 on those days?

10 A. From October 11<sup>th</sup>, it was quarter to one in the  
11 morning I removed the BOP and lubricator and at 3:00, I  
12 set them again. So, this was a night shift for myself.

13 Q. On the 12<sup>th</sup>, how long was that shift on the 12<sup>th</sup>?

14 A. I started the night shift and I departed at 7:00 in  
15 the morning.

16 Q. Are you able to go through these tally books that  
17 you have and estimate the hours that you were working at  
18 the wellsite for the time range covered by your tally  
19 books?

20 A. Estimate, yes, I was.

21 Q. If you could turn, let's go to September 1<sup>st</sup> of  
22 2013.

23 A. September 13<sup>th</sup>.

24 Q. We'll pull it up on the screen. So you don't have  
25 to flip through it.

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1           This is a job. I'm going to ask Milly to  
2 scroll through. Explain for the jurors what you are  
3 doing on each day starting in August of 2013, describe  
4 the general type of work you are doing on each of these  
5 days.

6       A. Just basically picking up and setting BOP and  
7 lubricator on the well.

8       Q. Is that typical of the work you were doing on the  
9 wellsite?

10      A. That's the typical everyday job.

11      Q. Is that the type of work you were describing for  
12 the ladies and gentlemen of the jury earlier?

13      A. Yes, sir, it was.

14           MR. WARREN: Milly, if you could go through.

15      Q. Let's figure out the day when this particular job  
16 started. I ask you to go to August 23<sup>rd</sup>. What happens  
17 on the 23<sup>rd</sup>?

18      A. I was at the shop and I went to Clarksburg, West  
19 Virginia, hotel.

20      Q. Then the 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup>, 27<sup>th</sup>, are you working on  
21 those days?

22      A. Yes, sir. We was on Phillip Base, 13 was the well.

23      Q. The next, 28<sup>th</sup>, 29<sup>th</sup>, 30<sup>th</sup>, and 31<sup>st</sup>, were you working  
24 those days?

25      A. Yes.

**Michael Burchik - Direct**

1 Q. What about the next few days?

2 A. We had a holiday in there but 2, 3, 4, 5, and 6,  
3 yes.

4 Q. Did you work on the holiday?

5 A. Yes, we was there.

6 Q. Can we keep working to the 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>,  
7 12<sup>th</sup>, were you working on those days?

8 A. Yes.

9 Q. 13 through 17, were you working each of those days?

10 A. Yes, sir.

11 Q. What about the 18<sup>th</sup> and 19<sup>th</sup>?

12 A. Yes.

13 Q. Did you get a couple days off?

14 A. 20 and 21 was days off.

15 Q. 22, what are you doing there?

16 A. We rigged up a crane and a grease package and we  
17 was waiting for iron to come out.

18 Q. Back on the wellsite?

19 A. Yes.

20 Q. Going through to the 24<sup>th</sup> through 29<sup>th</sup>, are you  
21 working those days?

22 A. Yes, we were.

23 Q. Keep going all the way through, just quickly go  
24 through the 30<sup>th</sup> through the 4<sup>th</sup>, are you working those  
25 days?

**Michael Burchik - Direct**

1 A. Yes, sir, I was.

2 Q. What about the 5<sup>th</sup> through the 12<sup>th</sup>?

3 A. 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup>, we were on stand-by.

4 Q. Describe for the ladies and gentlemen of the jury  
5 what that means.

6 A. Basically they had a problem with the well and they  
7 called in a snubbing unit, so we had to basically rig  
8 down and move to the side while they corrected the  
9 problem and on the 9<sup>th</sup> of September we were back in  
10 business.

11 Q. Are you just waiting for them to fix the problem  
12 while they are doing that?

13 A. Yes.

14 Q. Once you are back in business, are you working  
15 through 9, 10, 11, 12?

16 A. I started the night shift on the 9<sup>th</sup>.

17 Q. The 13<sup>th</sup> through the 18<sup>th</sup>, working every single one  
18 of those days?

19 A. Yes.

20 Q. What are your shifts on these days, how many hours  
21 are you working?

22 A. 12-hour shifts.

23 Q. Why are you confident of that?

24 A. Because that's the typical shift for any jobs, 12  
25 hours.

**Michael Burchik - Direct**

1 Q. All right.

2 MR. WARREN: Keep going, please, Milly.

3 Q. The 19<sup>th</sup> through the 24<sup>th</sup> it looks like you are still  
4 working, is that right?

5 A. Yes, sir. These are all in the same pad. There  
6 are three wells on the pad. We are jumping well to  
7 well.

8 Q. What about on 25 to 29, are you working on the  
9 wellsite each of those days?

10 A. Yes, we were.

11 Q. And let's finally go to the 30<sup>th</sup> through the 2<sup>nd</sup>, are  
12 you working those days?

13 A. Yes, sir, we are.

14 Q. Do you remember this particular job where you  
15 worked 70 out of 72 days?

16 A. Yes. We stayed in West Virginia quite a bit.

17 Q. Do you remember where that was in West Virginia?

18 A. Clarksburg hotel, Hampton Inn right off the  
19 interstate. It was about an hour to the wellsite,  
20 through the mountains. It was quite a distance.

21 Q. What was your general work schedule at Oil States?

22 A. 30 days on and 10 days off.

23 Q. Did you always get to take your 10 days off?

24 A. No. Normally, if we were in the middle of the job,  
25 we stayed working.



**Michael Burchik - Direct**

1 Q. Were there ever any situations where you were asked  
2 to keep working but you wanted to take your days off?

3 A. Could you repeat that.

4 Q. Sure. Were there ever any situations where someone  
5 at Oil States asked you to keep working when your days  
6 off came up but you wanted to take the days off?

7 A. Yes, that happened quite a bit.

8 Q. What would happen in those circumstances?

9 A. Normally, they didn't have someone to replace you  
10 if that was the question involved but we didn't mind the  
11 work. We would stay if there was no one there to  
12 replace us.

13 Q. In the time period of 2012, 2013 into 2014, do you  
14 recall roughly how often you were working through your  
15 days off?

16 A. I just don't recollect. It's too long ago.

17 Q. That's fair. Are you familiar with a daily report  
18 or a job activity log?

19 A. Yes, sir.

20 Q. What is that document?

21 A. It's basically a document we completed when we was  
22 working on the well.

23 Q. What information would you use to fill out your  
24 daily reports?

25 A. It was normally done with the tally book or same

**Michael Burchik - Direct**

1     timeframe we did for the tally book.

2     Q.     Could I ask you to look at Tab 15.   Can you  
3     identify what those documents are?

4     A.     This is a job report but it is not one of mine.  
5     Mine are normally handwritten.

6     Q.     Can you flip through it and see if you can find any  
7     of yours in that document.

8     A.     There's mine, a real basic one.

9     Q.     What is the page number on the bottom?

10    A.     It says 007.

11                 MR. WARREN:   Your Honor, may I publish?

12                 THE COURT:    Yes.

13    Q.     Is this your handwriting up on the screen?

14    A.     Yes, sir.

15    Q.     Describe for the ladies and gentlemen of the jury  
16    what type of information you recorded in these daily  
17    reports?

18    A.     It got the time I arrived at the location, rigged  
19    up, removed the risers.

20    Q.     Are you just generally describing the work you are  
21    doing at the wellsite?

22    A.     Yeah.   It's a stinger job.   It was a different kind  
23    of job.   It was a stinger operation where it had  
24    different kind of equipment but I was operating a crane  
25    for them.

**Michael Burchik - Direct**

1 Q. You were doing a crane job for stinger?

2 A. Yes.

3 Q. Are you familiar with a job bonus spreadsheet?

4 A. Yes, sir.

5 Q. Is that a document you filled out at Oil States?

6 A. Yes.

7 Q. Could you turn to Tab 16. What is that document?

8 A. The job bonus spreadsheet is a document that went  
9 along with the bonus packet when we turned in our bonus  
10 packet.

11 Q. Did you fill these out yourself?

12 A. Yes, that's my writing.

13 MR. WARREN: Your Honor, may I publish?

14 THE COURT: Yes, please publish.

15 Q. If we look here, does this reflect the location  
16 where you were working?

17 A. Yes, sir.

18 Q. Column G, it says position on job?

19 A. Yes, sir.

20 Q. What did you write in that column?

21 A. Crane operator.

22 Q. Is that the work you were doing?

23 A. Yes, sir, it was.

24 Q. When would you fill out these job bonus  
25 spreadsheets?

**Michael Burchik - Direct**

1 A. Along with our bonus packet.

2 Q. Let's pull that down.

3 Are you familiar with the monthly hours worked  
4 report?

5 A. Yes, sir, I am.

6 Q. If you could go to Tab 17.

7 A. Okay.

8 Q. What is that document?

9 A. That's the monthly hours report.

10 Q. Did you also call that document by another name?

11 A. I don't remember. I don't think so.

12 Q. No problem. Is that your handwriting on that  
13 document?

14 A. That's my handwriting but we filled these out on a  
15 monthly basis.

16 MR. WARREN: Your Honor, may I publish?

17 THE COURT: Yes.

18 Q. Do you happen to recall what month this was for?

19 A. January, I believe, 2015.

20 Q. There is only one entry on that report. Do you  
21 know why?

22 A. That's the only job I did for that particular  
23 month.

24 Q. Was business a lot slower in January 2015?

25 A. Yes, sir, it was.

**Michael Burchik - Direct**

1 Q. Would you fill out man hour reports in 2012, 2013,  
2 and 2014?

3 A. Yes, sir, we filled them out every month but when  
4 we asked Oil States to give these documents to us, this  
5 is the only document they furnished us with.

6 Q. Do you have copies of your man hour reports from  
7 2012 to 2014?

8 A. No, sir, we weren't required to keep them.

9 Q. So, when you filled these out, you would turn them  
10 into Oil States?

11 A. Yes.

12 Q. Did you ever keep a copy for yourself?

13 A. No, sir, we never had reason to keep them.

14 Q. So, you haven't received copies of the 2012 to 2014  
15 documents?

16 A. That's correct.

17 Q. So, earlier we talked about -- you can take that  
18 down. Earlier we talked about the amount of salary  
19 compensation you earned at Oil States, do you remember  
20 that?

21 A. Yes.

22 Q. Have you also gone through and tried to calculate  
23 and estimate the amount of bonus compensation you earned  
24 during the periods?

25 A. Yes.

**Michael Burchik - Direct**

1 Q. What documents or information did you use to  
2 perform that estimate?

3 A. I used my tally books.

4 Q. Why were you able to use your tally books to figure  
5 out the bonus you earned?

6 A. Because basically that was the most accurate  
7 information I had.

8 Q. So, you used your tally books to figure out the  
9 shifts you worked?

10 A. Yes.

11 Q. Were you able to determine the number or estimate  
12 the number of bonuses that you earned?

13 A. Yes.

14 Q. Have you gone through and tried to add up or  
15 estimate the number of bonuses you earned during  
16 different time periods at Oil States?

17 A. Yes.

18 Q. Do you have an estimate of the dollar value of the  
19 bonuses you earned between August 24 of 2012 and August  
20 24, 2015?

21 A. Yes, it's written down on my worksheet.

22 Q. Are those notes that you took?

23 A. Yes, they are my notes.

24 Q. Would it help refresh your recollection if you look  
25 at those notes?

**Michael Burchik - Direct**

1 A. Yes, sir.

2 Q. Let me know if that is the document you were  
3 referring to?

4 A. Yes, sir, it is.

5 Q. Does this refresh your recollection of the  
6 calculations you have done of the dollar value of job  
7 bonuses you earned between August 25, 2012 and August 24  
8 of 2013?

9 A. Yes.

10 Q. What is that number?

11 THE COURT: Okay. Answer the question, sir.

12 A. The number of bonuses I received from August 25<sup>th</sup>,  
13 2012 to August 24<sup>th</sup>, 2013 was 148 bonuses.

14 Q. What was the dollar value of those bonuses?

15 A. Dollar value was \$66,600.

16 Q. Have you performed a similar calculation of the  
17 number and dollar value of the job bonuses you earned  
18 from Oil States between August 25 of 2013 and when you  
19 left the company in February of 2015?

20 A. Yes, sir. Number of bonuses was 229 at a dollar  
21 value of \$103,050.

22 Q. Thank you very much. Let me take those back from  
23 you.

24 Mike, have you also gone through and tried to  
25 estimate the hours that you worked at Oil States between

**Michael Burchik - Direct**

1 2012 and 2015?

2 A. The hours, yes, sir, we did.

3 Q. Can you please describe for the ladies and  
4 gentlemen of the jury how you have gone through and  
5 estimated your hours?

6 A. Well, using our tally book by the documents you  
7 showed, I had the job dates recorded and I also had the  
8 hours that I worked on each job and the number of days.

9 Q. And have you gone through and tried to figure that  
10 out for each day between August 2012 and February of  
11 2015?

12 A. Yes, sir, I did.

13 Q. Would you record your shop days in your tally book?

14 A. Actually the shop days were not recorded. If we  
15 did not work on a job wellsite, we either worked in the  
16 shop or had days off.

17 Q. So, were you able to use the tally books to  
18 estimate the hours that you worked at wellsites?

19 A. Yes.

20 Q. Did you have any documents that you were able to  
21 use to estimate the hours you worked in the shop?

22 A. No, not for the shop.

23 Q. So, have you tried to come up with an estimate of  
24 the hours that you worked in the shop?

25 A. Yes. Keeping my tally book in mind and the days



**Michael Burchik - Direct**

1 off schedule, we was able to get a fairly accurate  
2 number of hours for the shop.

3 Q. When you were coming up with those estimates, how  
4 many hours did you use for each shop day?

5 A. Regular shop day was eight hours.

6 Q. Why did you use eight hours in your estimate?

7 A. Because that was the designated number of hours for  
8 a shop day.

9 Q. What about weekends, did you include weekends in  
10 your estimate?

11 A. We included Saturdays and not Sundays.

12 Q. Why would you do that?

13 A. Well, normally, we worked Saturdays and Sundays we  
14 normally had off.

15 Q. When you were doing these estimates, did you try to  
16 figure out your off days?

17 A. That was taken from our days off report balanced  
18 against our tally report.

19 Q. The days off report, what document is that?

20 A. That was our scheduled days off for each month was  
21 30-day schedule.

22 Q. Would you try to incorporate your scheduled days  
23 off into these hour estimates you did?

24 A. Exactly.

25 Q. This may not be an obvious question and answer but

**Michael Burchik - Direct**

1 for the days that you took off, how many hours did you  
2 include for those days in your estimate?

3 A. Zero hours for days off.

4 Q. So, have you actually gone through and tried to  
5 look at these documents and compile this information and  
6 come up with your best estimate of the total number of  
7 hours you worked between August 2012 and August of 2013?

8 A. Well, balancing those reports, that would give us a  
9 fairly accurate number of hours that we worked within  
10 that timeframe.

11 Q. Have you actually gone through and tried to come up  
12 with that estimate?

13 A. Yes, I did, and it's written down on my notes.

14 Q. If I handed you your notes, would that help refresh  
15 your recollection of the estimates that you did for that  
16 time period?

17 A. Yes, it would.

18 Q. I'm going to hand you this document and please let  
19 me know whether those are your notes and whether that  
20 document helps refresh your recollection of the  
21 estimates that you've come up with for the total number  
22 of hours you worked between August 25, 2012 and August  
23 24, 2013.

24 A. The total number of hours for the first dates was  
25 3,012 total hours.

**Michael Burchik - Direct**

1 Q. Have you also tried to estimate the number of  
2 overtime hours you worked in that period?

3 A. Yes, sir. For the same period timeframe was 1,257  
4 overtime hours.

5 Q. Could you tell the ladies and gentlemen of the jury  
6 how you calculated overtime hours based on the total  
7 number of hours?

8 A. The overtime hours are based on hours that are over  
9 40 hours. If it was over 40 hours, it was designated as  
10 overtime hours.

11 Q. Have you tried to go through and figure out how  
12 many overtime hours you worked on each individual week?

13 A. Yes, sir, I did.

14 Q. The numbers you just provided the ladies and  
15 gentlemen of the jury, is that how you came up with  
16 those overtime hours?

17 A. Yes.

18 Q. Have you also gone through and tried to estimate  
19 the total number of hours you worked between August 25<sup>th</sup>  
20 of 2013 and then when you left the company in February  
21 of 2015?

22 A. Total hours?

23 Q. Total number of hours, yes, sir.

24 A. Total number for the first period was 3,012 and for  
25 the second period was 4,029 hours.

**Michael Burchik - Direct**

1 Q. The 4,029 just to be clear, what time period is  
2 that covered by?

3 A. August 25, 2013 through February 18, 2015.

4 Q. Have you gone through and estimated the number of  
5 overtime hours that you worked between that August 25,  
6 2013 and February 2015?

7 A. Yes. Overtime hours was 1,731.

8 Q. Mike, was there a period when you worked at Oil  
9 States when you were out sick?

10 A. Yes, sir, I was in the hospital.

11 Q. When was that?

12 A. December 18<sup>th</sup>, 2013 through I believe it was the  
13 middle of March 2014.

14 Q. That time period when you were in the hospital,  
15 have you accounted for that in the hours estimate you  
16 have done?

17 A. I accounted for it, yes, sir.

18 Q. How many work hours did you include for those days?

19 A. Zero hours.

20 Q. So, that time period that you were out, was that  
21 included in the estimates you just provided to the  
22 ladies and gentlemen of the jury?

23 A. Yes, sir, it was.

24 Q. Mike, based on those estimates you just provided,  
25 have you calculated the average number of overtime hours

**Michael Burchik - Direct**

1 you worked in a typical week at Oil States?

2 A. Average number of hours? Yes, sir, by using the  
3 documents, my tally book, plus days off report.

4 Q. Do you recall what the average number of overtime  
5 hours you worked in a typical week was?

6 A. Between 24 and 25.

7 Q. Somewhere between 25 overtime hours a week?

8 A. Yes.

9 Q. Do you believe that's an accurate estimate of the  
10 overtime hours you worked at Oil States?

11 A. Yes.

12 Q. Do you believe these estimates you come up, do you  
13 believe they are reasonable to the best of your ability?

14 A. I believe so.

15 Q. What are you asking the ladies and gentlemen of the  
16 jury to award you in this case?

17 A. Basically the hours that we compiled together that  
18 we estimated that we worked that is due us.

19 Q. Do you have any particular dollar amount in mind?

20 A. No, I have no dollar amount. It's just based on  
21 the number of hours we worked during that timeframe.

22 Q. What is your understanding of how the dollar amount  
23 is determined based on the number of overtime hours you  
24 worked? Are you familiar with the formula that is used?

25 A. I heard of it but I don't really understand how

**Michael Burchik - Cross**

1 it's formulated. I believe the judge figures that out.

2 Q. Okay.

3 MR. WARREN: Thank you, Mike. I have no  
4 further questions.

5 THE COURT: Thank you very much.

6 Counsel, do you wish to begin  
7 cross-examination?

8 MR. DAVIS: Yes, Your Honor.

9 If I may approach to switch binders.

10 THE COURT: Yes.

11 CROSS-EXAMINATION

12 BY MR. DAVIS:

13 Q. Good afternoon, Mr. Burchik.

14 A. Good afternoon, sir.

15 Q. I want to talk to you about the job you had before  
16 coming to Oil States, I think it was Angelo's Landscape,  
17 right?

18 A. Yes, sir.

19 Q. You talked about a couple different types of  
20 machinery you operated there. You had the forklift, I  
21 think you said a front end loader?

22 A. It was a loader, yes.

23 Q. That's a lot different from the crane you operated  
24 at Oil States, the 45-ton crane, correct?

25 A. Basically, the levers are the same.

**Michael Burchik - Cross**

1 Q. But let's just take a forklift, for example, at  
2 Angelo's. At Angelo's you were paid \$13.20 an hour,  
3 correct?

4 A. Yes, sir.

5 Q. If you worked 2,000 hours a week, that's about  
6 \$26,000. Maybe with some overtime, maybe you get to  
7 \$30,000 a year, correct?

8 A. Yes.

9 Q. A forklift doesn't have a computer on it, does it?

10 A. No, sir.

11 Q. A forklift doesn't have outriggers that you have to  
12 get placed in just the right place so this doesn't tip  
13 over, does it?

14 A. No, sir.

15 Q. When you are operating a crane, you have to enter  
16 information into that computer and it better be right or  
17 that crane maybe will make an error in judgment and hurt  
18 somebody, right?

19 A. To a degree, that's correct.

20 Q. You have to tell the computer how far out you have  
21 the outriggers, right?

22 A. Basically you only put them all the way out.

23 Q. You have to tell the computer how many reeds you  
24 have out, correct?

25 A. Number of lines, yes, sir.

**Michael Burchik - Cross**

1 Q. What is a reed? Explain that.

2 A. Number of lines on your block that each line that  
3 you add, you get more weight to pick up.

4 Q. If you put in the wrong information in that  
5 computer, something could fall on something and somebody  
6 could get hurt?

7 A. That's incorrect. The number of reeds, regardless  
8 of what number you put in, if you try to pick something  
9 up that is too heavy, the crane would shut down.

10 Q. In a forklift, that doesn't have an anemometer,  
11 does it?

12 A. No, sir.

13 Q. That measures wind speed?

14 A. That's correct.

15 Q. If you are operating a forklift in a warehouse, you  
16 don't have to worry about lightning strikes off in the  
17 distance that might cause you to shut down the crane,  
18 you don't have to worry about wind that may make that  
19 boom swing, you don't have to worry about those things,  
20 do you?

21 A. That's correct.

22 MR. DAVIS: If we could put up Exhibit 59 up  
23 on the screen.

24 Q. So, when are you operating a forklift, you don't  
25 have people standing under the forks, do you?



**Michael Burchik - Cross**

1 A. That's correct.

2 Q. When you are operating one of these cranes and  
3 lifting -- this flow tube with the lubricator and the  
4 grease head, about how much does that weigh?

5 A. Maybe 10,000, 14,000 pounds all combined.

6 Q. So, with this crane you are hanging something like  
7 10,000 to 14,000 pounds up in an air and I'm seeing a  
8 guy standing right under there, do you see that?

9 A. Yes, I do.

10 Q. You're in complete control of this crane using the  
11 joy sticks, using the buttons, and that man's life is in  
12 your hands hoping you don't drop it on him, right?

13 A. I would say he is hoping, yes.

14 Q. That's a little bit different than operating a  
15 forklift, isn't it?

16 A. Yes.

17 Q. When you were hired by Oil States, one of the  
18 reasons you wanted this job was because it was salary  
19 and it had big job bonuses, correct?

20 A. That's not necessarily true.

21 Q. This pay plan paid you more than triple what you  
22 were making at Angelo's, correct?

23 A. Yes, it did.

24 Q. And as a salary employee when you got those days  
25 off, you still got your salary, right?

**Michael Burchik - Cross**

1 A. Correct.

2 Q. If you left early -- I think we saw some entrees in  
3 your tally book where it said standby. What that means  
4 is you get to the wellsite and there's nothing to do,  
5 right?

6 A. Sometimes that might be true and sometimes it's  
7 not.

8 Q. Sometimes you wouldn't even have to go to the  
9 wellsite, they would say you're on standby but we'll  
10 call you if we need you, right?

11 A. That might be true, yes.

12 Q. On those days you got your salary even though you  
13 didn't operate the crane at all, right?

14 A. Correct.

15 Q. You got your job bonus of \$450 even though you  
16 didn't operate that crane at all?

17 A. That's correct.

18 Q. I think we talked about this in your deposition.  
19 When you were estimating your hours since Oil States  
20 went ahead and treated that as a 12-hour shift and paid  
21 you your bonus, you went ahead and put those hours in  
22 and said, well, I worked 12 hours, right?

23 A. That spreadsheet was scrubbed several times and on  
24 several occasions. There were oversights that were  
25 brought to our attention and we corrected them but it

**Michael Burchik - Cross**

1 was scrubbed several times and if there was an error, it  
2 was -- attempts were made to make it right.

3 Q. Well, we'll talk about your hours estimate in a  
4 minute. I want to stay focused on the job.

5 This pay plan which paid you more than triple  
6 what you had made at your last job, you never went to  
7 management and complained about it and said I should be  
8 getting overtime on top of this, did you?

9 A. I did not know we were required to get overtime by  
10 law.

11 Q. And you didn't go to HR and say wait a minute, this  
12 pay plan is illegal and Adam Fowler is willfully  
13 violating the law like you're asking this jury to  
14 decide, did you?

15 A. Well, that pay plan came into effect well before  
16 Adam was there and he probably wouldn't have said  
17 nothing about it anyhow but that's the pay plan that was  
18 offered by the company to employ people.

19 Q. That you accepted and that you were paid exactly  
20 according to that pay plan you agreed to until after you  
21 left the company and then for the first time, you file a  
22 lawsuit saying you were underpaid, right?

23 A. That's because the hours that were due us was not  
24 paid and it was brought to our attention.

25 Q. Well, the hours that were due -- you were paid your

**Michael Burchik - Cross**

1 full salary whether you worked or you didn't, right?

2 A. In certain instances, yes.

3 Q. And you were paid the job bonus, whether you worked  
4 or didn't, right?

5 A. That's correct.

6 Q. Talking about the crane for just another second,  
7 this crane, there is some decision-making involved in  
8 setting up, wouldn't you agree with me?

9 A. Could you say that again, please.

10 Q. When you go out to a wellsite, we have seen some  
11 pictures about -- well, 59 shows all the different stuff  
12 out there. You have to figure out exactly where you can  
13 place that crane so you can stick the boom out to cover  
14 this well, this well, this well, this well, knowing the  
15 capacities of the crane, the angle to put the boom, how  
16 much it can hold, and all of the stuff you have to  
17 avoid, right?

18 A. That's part of the training that goes along with  
19 the job.

20 Q. Oil States gave you that training and helped you to  
21 be able to make these decisions, how to set this thing  
22 up, knowing how much weight you are going to have to  
23 lift, where the boom should be positioned, you had to  
24 make those decisions, right?

25 A. According to my training, yes.

**Michael Burchik - Cross**

1 Q. Then once you start operating the crane, you are  
2 moving a joy stick, correct?

3 A. Yes.

4 Q. Is that one of these things that you consider  
5 manual labor?

6 A. Yes.

7 Q. It doesn't take much effort, though, to move the  
8 joy stick?

9 A. It's still labor.

10 Q. Looking at the computer and punching in those  
11 coordinates or the things you have to punch in so it  
12 knows how much weight you can lift, you view that as  
13 manual labor as well?

14 A. Yes. You have to know how to operate it.

15 Q. In looking at the manuals, I think there is one  
16 pretty thick manual called the load charts, that has  
17 chart after chart after chart. When you are looking at  
18 that before you set up, you view that as manual labor,  
19 right?

20 A. Yes.

21 Q. And all of the paperwork, I think one of the  
22 exhibits you had when Mr. Warren was asking you  
23 questions was this job bonus packet. I think it's about  
24 600 pages of documents. You did have to do paperwork in  
25 your job, right?

**Michael Burchik - Cross**

1 A. Other than a bonus report.

2 Q. Well, the tally book, that's paperwork; job bonus  
3 report, that's paperwork; job safety analysis, that's  
4 where you go out to make sure it's safe to work, that is  
5 all paperwork you do on your job?

6 A. That was considered as part of the bonus package,  
7 yes.

8 Q. And you thought that was manual labor as well?

9 A. Yes.

10 Q. Then I believe you testified that after you are  
11 finished with the lift, you get it in place, and the  
12 wireline people start sending the tools down to do the  
13 explosions, and then you can get out of the cab of the  
14 crane, right?

15 A. Yes.

16 Q. And you said you would go help the person operating  
17 the grease injection machine, right?

18 A. Normally, yes.

19 Q. Now, you'd agree with me, though, that the purpose  
20 of you all being out there is to control pressure,  
21 correct?

22 A. Not my job. I control the crane.

23 Q. But you're going over when you are out of the crane  
24 to help the pressure control operator, correct?

25 A. I'm not helping him run his equipment, no.

**Michael Burchik - Cross**

1 Q. But if you see a problem, you are not just going to  
2 stand there while stuff starts shooting out of the well,  
3 are you?

4 A. Well, there's a lot of people around that well.  
5 Anyone can stop the job.

6 Q. Including you, you had stop work authority, right?

7 A. That's correct.

8 Q. Now, let's go to Exhibit 162, if we could. I'm  
9 sorry. We don't need 162.

10 You indicated there is an alarm on the crane?

11 A. Yes, sir.

12 Q. So, if you are about to do something unsafe or get  
13 something too heavy, it can fall and hurt somebody and  
14 an alarm would go off?

15 A. It won't let you pick it up.

16 Q. You tried to operate in a safe zone where you never  
17 got to the point of having the alarm go off, right?

18 A. That's correct.

19 Q. You had to make the judgment call where do I stop  
20 before I hit the point where that alarm goes off, right?

21 A. That's common sense.

22 Q. It's sort of like the pilot flying along, they  
23 don't want to wait until they get so close to the  
24 mountain that the plane is telling them pull up, pull  
25 up, pull up, that was your job to determine when do I

**Michael Burchik - Cross**

1 stop, where do I move this thing, how close do I get it  
2 to that person who is standing on the man lift, that was  
3 your job, right?

4 A. That's an inaccurate statement.

5 Q. You don't believe that operating this complicated  
6 piece of machinery involved any decision-making at all?

7 A. Well, we worked too close to the well even to pick  
8 up something that heavy that would require us to stop.

9 Q. But you had to make the judgment call on when to  
10 stop, right?

11 A. I don't see that coming into play, setting a  
12 lubricator on the well.

13 Q. One other aspect of operating the crane, you  
14 punched those buttons and I think it was -- let's go to  
15 Exhibit 163, if we could.

16 You got the joy stick there but you also have  
17 some buttons beside it, right? You may have covered it,  
18 but what are those buttons used for?

19 A. This is a joy stick that is similar to our crane.  
20 Normally, we would have two joy sticks but basically the  
21 buttons are for the speed of your secondary line.

22 Q. You're in the crane. You have to make the judgment  
23 call on the speed of the secondary line, don't you?

24 A. Normally, I don't even use the secondary line.

25 Q. Are you claiming that pushing these buttons is



**Michael Burchik - Cross**

1 manual labor?

2 A. Well, sure.

3 Q. I'm not quite following you on the pickup truck  
4 issue but you did drive some big trucks while you were  
5 at Oil States, right?

6 A. Yes.

7 Q. You drove the International Durastar, which is a  
8 big truck, right?

9 A. I drove some of the trucks. I'm not sure that was  
10 one of them.

11 Q. That is a DOT regulated truck?

12 A. I'm not sure.

13 Q. And you drove the 5500 flatbed, that's a DOT  
14 regulated truck?

15 A. Yes.

16 Q. But the pickup truck, I think we saw the sticker  
17 for it, this was about a \$36,000 F-150 that the company  
18 gave you that you drove back and forth from your home to  
19 either the wellsite or the shop, right?

20 A. Yes.

21 Q. And on your days off, you would take it home,  
22 right?

23 A. Yes.

24 Q. And if we look at the GPS reports, there were  
25 occasions when you would go to restaurants or use the

**Michael Burchik - Cross**

1 truck to go places for personal business, right?

2 A. To the restaurant, yes.

3 Q. And the company bought all your gas for that,  
4 right?

5 A. Yes.

6 Q. Mr. Warren showed you a fuel transaction report  
7 which showed buying a lot of gas. I think you said you  
8 bought gas every day?

9 A. Probably every other day.

10 Q. One of the reasons you were buying so much gas for  
11 that F-150 is that when you were at the wellsite, you  
12 would leave it idling all day long for 12 hours, right?

13 A. Normally, yes.

14 Q. Why would you do that?

15 A. Well, if it was wintertime, we would need the  
16 heater and if it was in the summertime, for the air  
17 conditioning.

18 Q. But I thought you were either working in the crane  
19 or working and helping out with the grease operator.  
20 Why would you need to leave the truck running for 12  
21 hours if you were doing those two things?

22 A. That's just normally how we operated.

23 Q. And nobody at Oil States ever said anything to you?

24 A. No, sir.

25 Q. So other people did that as well?

**Michael Burchik - Cross**

1 A. I'm sure they did.

2 Q. But it's your testimony that on a 12-hour shift,  
3 you were either in the crane or helping out with the  
4 grease but you still had your truck running for 12 full  
5 hours?

6 A. Not necessarily but could be.

7 Q. That may be one of the reasons you were buying so  
8 much gas just because you left the truck running rather  
9 than you needing gas for work every day, right?

10 A. That could be, yes.

11 Q. I would like to talk to you about your hours  
12 estimate just to make sure I understand those.

13 So, you used Exhibits 12 and 13 which are your  
14 tally books, right, to estimate how many hours you were  
15 working?

16 A. 12 and 13 exhibits?

17 Q. Counsel showed them to you in his notebook but they  
18 are also in front of you on my notebook.

19 Just so we're clear, I want you to look at  
20 them and tell me if that is what you used to estimate  
21 your hours worked during these timeframes.

22 A. Yes, they are my tally books.

23 Q. If you could, just so the record is clear, tell me  
24 the timeframe of those tally books, when do they start  
25 and when do they stop and if you would start with

**Michael Burchik - Cross**

1 Exhibit 12.

2 What is the first date on there and what is  
3 the last date?

4 A. April 27, 2012 and the last day of that job?

5 Q. Last day of the tally book.

6 A. That looks like November 18, 2014.

7 Q. Exhibit 13, what's the timeframe on that?

8 A. October 9<sup>th</sup>, 2012 to November 2014.

9 Q. It looks like do those overlap? Do you have one  
10 that covers -- you said the first one Exhibit 12, April  
11 27, 2012 to November 18, 2014 and the second one covers  
12 the same timeframe?

13 A. '12, '13, '14.

14 Q. But if we're going to go and look at those and see  
15 what you wrote down almost three years ago to determine  
16 how many hours you were working and compare it to your  
17 estimates, one thing you're doing is if it says standby,  
18 whether you were at work or not, at home, at a hotel,  
19 you are just including 12 hours for that, right?

20 A. The normal shift was 12 hours and that is how it  
21 was reported, yes.

22 Q. And if you got to the wellsite, let's say, at  
23 six a.m. and you determined that wireline was broken,  
24 the other company wasn't ready and you only stayed a  
25 couple of hours, you would still put down 12 hours in

**Michael Burchik - Cross**

1 your estimate for what you want the jury to award you,  
2 right?

3 A. Our normal shift was 12 hours, so I can't really  
4 say when we left the site or not.

5 Q. But for purposes of your hours estimate that you  
6 testified about a minute ago, you went ahead and  
7 included the full 12 hours, right?

8 A. Only if it wasn't designated as a shorter day.

9 Q. Right. But if you got there, some other company  
10 was having a problem and there was no crane work to be  
11 done, you went ahead and put in 12 hours for this jury  
12 to award you?

13 A. That was the normal shift, 12 hours. If it was  
14 standby, I couldn't tell you what we was doing during  
15 that period.

16 Q. Then I think you testified that you used as part of  
17 your estimates Exhibit 14, which is the big job bonus  
18 packet which has invoices and all the stuff that Oil  
19 States sold and things like that, right?

20 A. Yes, sir.

21 Q. But included in that 600 pages are documents  
22 relating to other workers, not you, right?

23 A. That particular part of the book, there were other  
24 pages in there but it's not the pages I used to make my  
25 spreadsheet.

**Michael Burchik - Cross**

1 Q. Let's get one real specific. If you could, go to  
2 Exhibit 16.

3 MR. DAVIS: If we could pop that one up,  
4 Exhibit 16. I'm sorry. I have the wrong one. It's 15  
5 I need.

6 Q. Exhibit 15 are the daily reports where you would  
7 take information from your tally book and put it in the  
8 formal company document which is the daily report,  
9 right?

10 A. That's correct.

11 Q. And you used those for purposes of estimating the  
12 hours you want the jury to award you?

13 A. No, I did not use that. I used my tally book.  
14 These documents weren't given to me during the time that  
15 I calculated that spreadsheet and I don't recollect the  
16 time they were given to me, so I didn't use them at all.

17 Q. Well, they were given to your lawyer two years ago.  
18 When did you first see them?

19 A. I don't recall.

20 Q. I didn't hear you say anything about using the GPS  
21 report in your estimates of hours worked. Did you ever  
22 look at that to see exactly where your truck was and for  
23 how long?

24 A. I had a GPS at the very end of my tenure when I  
25 worked there and I wouldn't know how it worked to use

**Michael Burchik - Cross**

1 it.

2 Q. Well, you had never seen the fuel transaction  
3 report while you were working at Oil States?

4 A. That's correct.

5 Q. You are able to testify about that here in court  
6 even though you never saw it while you were working at  
7 Oil States?

8 A. Well, that document is self-explanatory.

9 Q. We'll offer it as an exhibit, this GPS report, but  
10 I don't want you to testify about it if you have never  
11 seen it. You have never seen it?

12 A. No, I have never seen it.

13 Q. So, your lawyers didn't show you that document on  
14 where your truck was and for how long for purposes of  
15 estimating your hours?

16 A. No, I never seen it.

17 Q. Even though we gave that to them years ago, you  
18 have never seen it?

19 A. Well, I don't know about years ago. I only had  
20 that in my truck the latter part of the year I worked  
21 there.

22 Q. Well, if that report says that there are days you  
23 were estimating that you were at the wellsite when you  
24 were only there for a couple of hours, do you have any  
25 reason to doubt that report?

**Michael Burchik - Cross**

1 A. Well, I still stand by my tally book because I  
2 filled it out on a day-to-day basis as I did the job.

3 Q. But you would agree with me your tally  
4 book -- there are days where there is no entry at all in  
5 that tally book, right?

6 A. Then I wasn't on a job site.

7 Q. And then there are days it just shows what time you  
8 arrived and a couple things you did during the day but  
9 doesn't say what time you left?

10 A. It showed me on the wellsite. That's what I was  
11 concerned about.

12 Q. You didn't write down exactly what time you left,  
13 right?

14 A. No, I did not.

15 Q. But the GPS report would say what time your truck  
16 left that well and you never looked at that?

17 MR. WARREN: Objection, Your Honor.  
18 Foundation objection.

19 THE COURT: No. Overruled. It may be  
20 repetitive but overruled.

21 Q. Is it possible this hours estimate you gave to the  
22 jury is inaccurate?

23 A. There might be some inconsistencies but we had  
24 scrubbed that document on several occasions and it's a  
25 document that -- it's an estimate to the best of our



**Michael Burchik - Cross**

1 ability.

2 Q. Just so I'm clear, even though you were paid -- let  
3 me clear up one thing.

4 There was a W2 for the year 2014 that said  
5 \$97,000, and you testified about that one. That was a  
6 year when you were off on FMLA for about three months,  
7 right, from December of '13 to March of '14?

8 A. Yes, sir.

9 Q. So, there was a period of three months you weren't  
10 working, but you would agree with me had you been  
11 working, you would have made over a hundred thousand  
12 dollars a year?

13 A. Probably so.

14 Q. So, I'm not asking you to testify about the law but  
15 do you know anything about this highly compensated  
16 exemptions for people that make over one hundred  
17 thousand dollars a year?

18 A. No, sir, I do not.

19 Q. Your claim in this case is that even though Oil  
20 States paid you over a hundred thousand dollars every  
21 year, you're asking for more based on an hours estimate  
22 that you acknowledge is probably not very accurate?

23 A. That's incorrect.

24 Q. We know there's errors in it, don't we?

25 A. There were some errors, yes, but we corrected the

**Michael Burchik - Cross**

1 ones that were brought to our attention.

2 Q. You are also asking this jury to find that there  
3 was an intentional and willful violation of the law,  
4 right?

5 A. Of the monies being paid.

6 Q. Well, you brought the claim under the Fair Labor  
7 Standards Act. Do you want the jury to find there was  
8 an intentional, willful violation of the law?

9 A. That's correct. That's money due us and the  
10 lawyers figure that out.

11 Q. But as far as Adam and his willful or intentional  
12 violation of the law, are you saying that's what he did  
13 to you?

14 A. I'm not saying he did anything to us. That's a  
15 company policy that was given to us.

16 Q. He is the one approving your paychecks, signing off  
17 on your bonuses, and getting you paid and you are still  
18 saying he willfully and intentionally violated the  
19 federal law?

20 A. Well, if we was due that money according to  
21 Pennsylvania law, that's correct.

22 MR. DAVIS: Pass the witness.

23 THE COURT: Thank you.

24 Counsel, redirect.

25 MR. WARREN: Thank you, Your Honor.

**Michael Burchik - Redirect**

1                                    REDIRECT EXAMINATION

2    BY MR. WARREN:

3    Q.    Mike, I just want to go through a couple things  
4    Mr. Davis discussed with you.

5                    One is the question of standby. Can you just  
6    explain for the ladies and gentlemen of the jury because  
7    I'm not sure they understand what does standby mean?

8    A.    Basically a standby is if we're on a job and say  
9    we're working and all of a sudden something breaks down,  
10   the crane is no longer used and the company man will  
11   have us set aside while they work the problem out.

12                  So, basically I'm not operating a crane.  
13   We're just standing by until operations continue to  
14   function again.

15   Q.    And if the fracking contractor, if their equipment  
16   goes down and the company man asks you to stand to the  
17   side, in those circumstances were you permitted to leave  
18   the wellsite?

19   A.    No, sir, we're not permitted to leave. We're on  
20   standby. At any time he can call us back into position  
21   and resume working.

22   Q.    And so would Oil States permit you to leave the  
23   worksite if the company man told you that you needed to  
24   stay there?

25   A.    No, they won't authorize us to leave either.

**Michael Burchik - Redirect**

1 Q. Were there some circumstances when you were on  
2 standby you were permitted to leave?

3 A. Yes, sir, there was.

4 Q. Describe for the ladies and gentlemen of the jury  
5 what some of those circumstances might be?

6 A. Basically if we had a big problem with the well,  
7 they had someone to come out to make corrections and if  
8 it is going to take several days to correct that, nine  
9 times out of ten, the company man would release us but  
10 to be on call.

11 Q. If there was a situation where the company man  
12 released you and sent you back to the hotel or sent you  
13 somewhere to wait, did you include those hours in the  
14 estimates of the work that you performed at Oil States?

15 A. No, sir, they weren't included.

16 Q. Mr. Davis also asked you questions. I think he  
17 asked you if there were circumstances where you worked  
18 fewer than 12 hours and you wrote that in your tally  
19 book and you just wrote 12 hours anyway. Do you  
20 remember questions on that topic?

21 A. Yes, sir, I did.

22 Q. When your tally books showed that you worked fewer  
23 than 12 hours, that did happen?

24 A. Yes, sir.

25 Q. On those situations when your tally books showed

**Michael Burchik - Redirect**

1 you worked fewer than 12 hours, when you were preparing  
2 the hour estimate, can you tell the ladies and gentlemen  
3 of the jury how many hours you included in those days?

4 A. It was the number of hours we started and the  
5 number of hours we left. So, if we worked nine and a  
6 half hours, that is the numbers I recorded on the  
7 spreadsheet, not a 12-hour shift.

8 Q. Let's show the ladies and gentlemen of the jury an  
9 example of that.

10 MR. WARREN: Milly, can you please pull up  
11 Exhibit 13.

12 Q. So, let's just stick with the very entry in the  
13 tally book. Can you read for the jurors what the entry  
14 for October 9, 2012 shows.

15 A. Rigged up on Tuesday between 6 and 12 and that's  
16 the last entry I put. I can't really say what I did for  
17 the rest of the day.

18 Q. On that entry do you remember how many hours you  
19 used in your hours estimate for that particular day?

20 A. I got zero in the corner.

21 Q. If I showed you the estimates that you performed,  
22 would that help refresh your recollection?

23 A. Yes, sir, it would.

24 MR. DAVIS: May we approach on this one?

25 THE COURT: Yes. Very briefly.

**Michael Burchik - Redirect**

1 (Sidebar discussion held as follows:)

2 MR. DAVIS: Now he is going to have him  
3 testify from the spreadsheet which was a document  
4 created by counsel. It's like providing a script to a  
5 witness.

6 THE COURT: My question, we have already done  
7 this. You have already gone through this and you are  
8 bringing the same sheet back. Is he going to say the  
9 same thing he said before?

10 MR. WARREN: No, Your Honor. What I'm asking  
11 him is Mr. Davis suggested for every day he just wrote  
12 12 hours for every day and I'm asking him whether  
13 that's, in fact, true and asking him to refresh his  
14 recollection for this particular day.

15 THE COURT: But the document you are giving  
16 him, if I understand it correctly, you are showing him a  
17 spreadsheet he didn't offer. It's your summary of his  
18 notes, right?

19 You can use that sheet to refresh his numbers  
20 but you are now asking for a particular day. What is  
21 the organic document for that?

22 MR. WARREN: The document is what happened and  
23 again, I would say Mr. Davis is free to cross-examine on  
24 the subject, but the deposition of him shows the  
25 documents and the tally book we were just looking at,

**Michael Burchik - Redirect**

1 Mr. Burchik reviewed them and figured out what the hours  
2 were and someone else, his attorneys put that  
3 information into a spreadsheet but he reviewed the  
4 spreadsheet to confirm --

5 THE COURT: The tally book is the real  
6 evidence. The tally book, if he challenges certain day,  
7 go to that tally book and look at that day.

8 You are using a spreadsheet that he didn't  
9 create to show him something about his tally book. You  
10 should use the tally book.

11 MR. DAVIS: We've established the record with  
12 the Court that the summary spreadsheet is not accurate.  
13 Counsel took the liberty --

14 THE COURT: Well, let's be careful here. The  
15 testimony is that it's inaccurate and he was pretty  
16 careful with what he said. He couldn't remember if it  
17 was inaccurate. To say it was wholly inaccurate is not  
18 correct. He just couldn't figure it out.

19 My problem is it's an evidentiary issue. How  
20 are you going to get -- you are challenging the  
21 gentleman and trying to rehabilitate him on a document  
22 he didn't create. His memory is going to be  
23 rehabilitated from the tally book if I understand you.

24 MR. WARREN: Your Honor, I think to simplify  
25 this, I'm happy to withdraw the question.

**Michael Burchik - Redirect**

1 THE COURT: That's fine then. Withdraw the  
2 question.

3 Thank you.

4 (Sidebar discussion was concluded.)

5 THE COURT: You may proceed. Take that down.

6 MR. WARREN: This is the tally book. I didn't  
7 pass up the exhibit.

8 BY MR. WARREN:

9 Q. Mike, just to finish this point again, this is the  
10 very first page of the tally book. Can you just tell  
11 the ladies and gentlemen of the jury how many hours you  
12 are claiming you worked for October 9, 2012?

13 A. It's in the corner. I'm not sure. It looks like  
14 it's a zero or a ten.

15 Q. Does that period, does that entry reflect the time  
16 you arrived and left the wellsite on that day?

17 A. No, sir, it does not.

18 Q. Were there entries in your tally books that do  
19 reflect when you arrived and left the wellsite?

20 A. Yes, sir.

21 Q. I'm going to show an example of that. Let's go to  
22 January 17 of 2013.

23 Mike, I think it's on the screen to make it  
24 easier for you. Can you look at January 17. Can you  
25 see whether that entry shows when you arrived and when



**Michael Burchik - Redirect**

1 you left?

2 A. I arrived at the location at 8:00 and left the shop  
3 at 6:30.

4 Q. What time did you depart location?

5 A. 5:00.

6 Q. So, according to this tally book entry, you were  
7 working at the wellsite from 8:00 to 5:00, is that  
8 right?

9 A. Yes.

10 Q. How many hours are you asking the ladies and  
11 gentlemen of the jury to award you or how many hours are  
12 you claiming that you worked on that particular day?

13 A. Between eight and five.

14 Q. Do you call that nine hours?

15 A. Yes.

16 Q. So, are you asking the ladies and gentlemen of the  
17 jury to determine that you worked nine hours on that  
18 day, not 12?

19 A. Correct.

20 Q. Have you done the same thing for all of the other  
21 days when your tally book showed you didn't work a full  
22 12 hours, if your tally book showed you worked fewer  
23 than 12 hours, are you asking them to award you the  
24 actual number of hours you actually worked?

25 A. No. We would ask for less hours, whenever we were

**Michael Burchik - Redirect**

1 on the site.

2 Q. You are asking the jurors to award you the actual  
3 number of hours?

4 A. The actual numbers, yes.

5 Q. Mike, one of the questions you were asked is  
6 whether you drove certain big trucks?

7 A. Yes.

8 Q. Was there a time at Oil States when you drove big  
9 trucks more often?

10 A. My first two years I did drive bigger trucks, more  
11 hotshots.

12 Q. Did you stop driving big trucks or drive trucks  
13 less frequently at some point?

14 A. Yes, when I was assigned my work truck.

15 Q. Once you were assigned that work truck, what truck,  
16 what vehicle were you using to do your work duties?

17 A. My assigned truck.

18 Q. Mr. Davis asked you a question, some questions  
19 about whether you would leave your pickup truck idling.  
20 Do you remember those questions?

21 A. Yes, sir.

22 Q. When you were not in the cab of the crane and you  
23 were at the wellsite. So when you are waiting on the  
24 fracturing contractor, waiting on the wireline  
25 contractor, were you permitted to leave the wellsite

**Michael Burchik - Redirect**

1 during those times?

2 A. No, sir, we were not.

3 Q. What were you required to do?

4 A. Stand by until we was instructed to do something.

5 Q. If you were waiting for the fracking contractor to  
6 do their work, were you permitted to sit in your truck?

7 A. Yes, we were.

8 Q. Were there times when you would sit in your truck?

9 A. Yes, sir.

10 Q. So, would you want to keep your truck at a  
11 comfortable temperature?

12 A. Exactly.

13 Q. And so you weren't always out sitting in the cab of  
14 the crane when you were at the wellsite, is that fair?

15 A. That's correct.

16 Q. One other question on the use of the trucks.

17 Mr. Davis asked you whether you're using the -- you're  
18 refilling the fuel tank so often because you left the  
19 truck running, do you remember that question?

20 A. Yes, sir.

21 Q. Did you use any vehicle other than your assigned  
22 work truck to do your work duties and to get around  
23 while you worked for Oil States?

24 A. No, sir, we had no other vehicle.

25 Q. So, is it fair to say, would you say you were using

**Michael Burchik - Redirect**

1 your assigned work truck every day for work purposes?

2 A. Yes, sir, that's fair to say.

3 Q. One last series of questions. Mr. Davis asked you  
4 about whether you thought you were performing manual  
5 labor when you were performing certain activities. I  
6 believe you said those activities are manual labor, is  
7 that accurate?

8 A. Yes, sir.

9 Q. When you are at the wellsite, what is your main  
10 responsibility at the wellsite?

11 A. Operate the crane.

12 Q. And when during the day would you fill out  
13 paperwork?

14 A. Bonus paperwork?

15 Q. Any paperwork.

16 A. After my job was performed.

17 Q. Was filling out the paperwork, was that something  
18 you spent a lot of time thinking about during the day?

19 A. No, not at all.

20 Q. How did the paperwork kind of fit into the job you  
21 were doing?

22 A. It was part of Oil States' requirement in order for  
23 us to get paid.

24 Q. But when you are sitting in the cab, when you are  
25 operating a crane, do you consider being a crane

1 operator to be a manual labor job?

2 A. Yes, I do.

3 Q. And so when you told Mr. Davis you believed certain  
4 activities are manual labor, is that because you  
5 associate those activities with operating a crane?

6 A. Yes.

7 MR. WARREN: Nothing further, Your Honor.

8 THE COURT: Thank you.

9 Any recross on this witness?

10 MR. DAVIS: Nothing, Your Honor.

11 THE COURT: Ladies and gentlemen, I was going  
12 to call up our next witness but it is ten of five and  
13 you had a long day. It has been a long day.

14 Sir, you may step down with the Court's  
15 appreciation.

16 Ladies and gentlemen, we are going to adjourn  
17 today. I understand from my deputy you are willing and  
18 I greatly appreciate to start at eight o'clock tomorrow  
19 morning. We will be ready to start at eight o'clock for  
20 you.

21 This is a puzzle. You are only seeing one  
22 piece, in fact, one witness. Please make no decisions,  
23 please follow my admonition. Please do not research  
24 tonight. Do not do any homework. The test has nothing  
25 to do with what you do outside this courtroom.

1           We will see you again tomorrow morning at  
2 eight o'clock sharp for the calling of the next witness.

3           Thank you.

4           (Whereupon, court was recessed for the day at  
5 4:50 p.m.)

6                                 - - -

7  
8           I hereby certify by my original signature  
9 herein, that the foregoing is a correct transcript, to  
10 the best of my ability, from the record of proceedings  
11 in the above-entitled matter.

12

13

14                                 S/ Karen M. Earley

15                                 Karen M. Earley

16                                 Certified Realtime Reporter

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